

**FEDERAL ELECTION COMMISSION**

**FIRST GENERAL COUNSEL'S REPORT**

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**MUR: 7106**

**DATE COMPLAINT FILED:** July 11, 2016

**DATE OF NOTIFICATION:** July 18, 2016 **CELA**

**SUPPLEMENTAL COMPLAINTS FILED:**

August 4, 2016 and August 30, 2016

**DATE OF LAST RESPONSE:** September 26, 2016

**DATE ACTIVATED:** September 29, 2016

**EXPIRATION OF SOL:** November 19, 2020 –  
July 22, 2021

**ELECTION CYCLE:** 2016

**COMPLAINANT:**

Michelle C. Clay

**RESPONDENTS:**

Maria Chappelle-Nadal

Chappelle-Nadal for Congress and George Lenard

in his official capacity as treasurer

Citizens for Maria Chappelle-Nadal and Neva

Taylor in her official capacity as treasurer

Spectrum Reach TM

Madeline Buthod

Patty Ellison-Brown

Donna Baringer

Sandy Tsai

**RELEVANT STATUTES  
AND REGULATIONS:**

52 U.S.C. § 30101(20)

52 U.S.C. § 30104(b)

52 U.S.C. § 30116(a)(1)(A), (a)(7)(B)

52 U.S.C. § 30118(a)

52 U.S.C. § 30125(e), (f)

11 C.F.R. § 100.24

11 C.F.R. § 104.13(a)

11 C.F.R. § 106.1(a)

11 C.F.R. § 110.3(d)

11 C.F.R. § 300.62

**INTERNAL REPORTS CHECKED:**

Disclosure Reports

**AGENCIES CHECKED:**

Missouri Ethics Commission

**MUR: 7108**

DATE COMPLAINT FILED: July 18, 2016

DATE OF NOTIFICATION: July 25, 2016

DATE OF LAST RESPONSE: August 15, 2016

DATE ACTIVATED: September 30, 2016

EXPIRATION OF SOL: March 16, 2021 – June 19, 2021

ELECTION CYCLE: 2016

**COMPLAINANT:**

Mary Patricia Dorsey

**RESPONDENTS:**

Chappelle-Nadal for Congress and George Lenard  
in his official capacity as treasurer  
Citizens for Maria Chappelle-Nadal and Neva  
Taylor in her official capacity as treasurer  
Citizens to Elect Gray and Angela Mosley in her  
official capacity as treasurer  
Citizens to Elect Jay Mosley State Committee LLC  
and Angela D. Mosley in her official capacity as  
treasurer  
Linda Weaver

**RELEVANT STATUTES  
AND REGULATIONS:**

52 U.S.C. § 30104(b)  
52 U.S.C. § 30116(a)(7)(B)  
52 U.S.C. § 30125(e), (f)  
11 C.F.R. § 104.13(a)  
11 C.F.R. § 109.21

**INTERNAL REPORTS CHECKED:** None

**AGENCIES CHECKED:** None

**I. INTRODUCTION**

The two Complaints, together with their supplements, allege that Maria Chappelle-Nadal, a Missouri State Senator and 2016 candidate for the U.S. House of Representatives, and her state and federal campaign committees violated the soft money prohibitions in the Federal Election Campaign Act of 1971, as amended (the "Act"). The Complaints argue that Citizens for Maria Chappelle-Nadal (the "State Committee") influenced Chappelle-Nadal's federal candidacy by making contributions to state and local candidates and by providing in-kind contributions and

transfers to her federal committee, Chappelle-Nadal for Congress (the "Federal Committee"). The Complaints also allege that the Federal Committee failed to comply with the Act's reporting requirements, and that several state and local candidates in Missouri, as well as a media vendor and a campaign contributor, violated the Act's soft money prohibitions through their involvement with the State and Federal Committees.

As discussed in detail below, we recommend that the Commission find reason to believe that Chappelle-Nadal and the State Committee violated the Act by using soft money in connection with non-federal elections and authorize pre-probable cause conciliation. We recommend taking no action against the Federal Committee except for sending a cautionary letter in connection with its failure to disclose in-kind contributions. We also recommend that the Commission dismiss the allegation that Citizens to Elect Gray and Angela Mosley in her official capacity as treasurer violated the Act by using soft money to pay for Chappelle-Nadal to appear on a door hanger. Finally, we recommend finding no reason to believe that any of the remaining Respondents violated the Act and that the Commission close the file for MUR 7108.<sup>1</sup>

## II. FACTUAL AND LEGAL ANALYSIS

In 2003, Chappelle-Nadal registered Citizens for Maria Chappelle-Nadal with the Missouri Ethics Commission. She successfully ran for the Missouri House of Representatives in 2004, 2006, and 2008, and for the Missouri State Senate in 2010 and 2014.<sup>2</sup> After the 2014 election, she was term-limited from running for the Missouri State Senate again.<sup>3</sup> At that time,

<sup>1</sup> We are not recommending that the Commission proceed as to any of the allegations in MUR 7108. That matter does not pertain to Chappelle-Nadal's and her State Committee's spending in connection with non-federal elections.

<sup>2</sup> CO31173: *Citizens for Maria Chappelle-Nadal*, MO. ETHICS COMM'N, [http://mec.mo.gov/MEC/Campaign\\_Finance/CFI/CommInfo.aspx](http://mec.mo.gov/MEC/Campaign_Finance/CFI/CommInfo.aspx) (last visited Jan. 30, 2017).

<sup>3</sup> MO. CONST. art. III, § 8.

1 she had approximately \$200,000 in her State Committee's account.<sup>4</sup> In January 2015,  
2 Chappelle-Nadal amended the State Committee's Statement of Organization to reflect that she  
3 would be running for statewide office in 2020.<sup>5</sup>

4 Chappelle-Nadal also filed a Statement of Candidacy for Missouri's First Congressional  
5 District on October 6, 2015, and on the same day she registered Chappelle-Nadal for Congress as  
6 her principal campaign committee.<sup>6</sup> As of October 29, 2015, the Federal Committee had  
7 collected over \$5,000 in contributions, making Chappelle-Nadal a federal candidate under the  
8 Act.<sup>7</sup> She lost to her incumbent opponent in the August 2, 2016 Democratic Primary Election.

9 The Complaints in these matters allege that the Respondents violated the Act's soft  
10 money prohibition because (1) the State Committee used soft money to influence Chappelle-  
11 Nadal's congressional election; (2) other state and local candidates spent soft money in  
12 connection with Chappelle-Nadal's federal election; and (3) the State Committee transferred  
13 funds to the Federal Committee.<sup>8</sup> The Act's soft money provision prohibits federal candidates,  
14 their agents, and entities established, financed, maintained, or controlled ("EFMC'd") by federal  
15 candidates from soliciting, receiving, directing, transferring, or spending funds "in connection"

<sup>4</sup> 2014 30-Day After General Election Report, Citizens for Maria Chappelle-Nadal (Dec. 4, 2014).

<sup>5</sup> Amended Statement of Committee Organization, Citizens for Maria Chappelle-Nadal (Jan. 28, 2015). To any extent that the Complaints are alleging that Chappelle-Nadal acted wrongfully in declaring her intent to run for statewide office, without specifying which position she is seeking, that is a matter of Missouri law and outside the Commission's jurisdiction. *See* Compl. (MUR 7106) at 1 (July 11, 2016); 1<sup>st</sup> Suppl. Compl. (MUR 7106) at 1 (Aug. 4, 2016); 2<sup>nd</sup> Suppl. Compl. (MUR 7106) at 1 (Aug. 30, 2016).

<sup>6</sup> Statement of Organization, Chappelle-Nadal for Congress (Oct. 6, 2015); Statement of Candidacy, Maria Chappelle-Nadal (Oct. 6, 2015).

<sup>7</sup> 52 U.S.C. § 30101(2)(A) (stating that a person becomes a "candidate" when she receives contributions aggregating over \$5,000); 2015 Year-End Report, Chappelle-Nadal for Congress (Jan. 29, 2016).

<sup>8</sup> Under Missouri law, candidates can accept unlimited contributions and contributions from corporations and labor unions. MO. REV. STAT. §§ 130.011-.160 (providing no contribution limit); *id.* § 130.029 (stating that corporations and labor organizations may make contributions).

with any federal or non-federal election unless the funds are in amounts and from sources permitted by the Act.<sup>9</sup>

The Commission has provided guidance on the types of activities that are "in connection" with an election. Such activities include, but are not limited to: (1) contributing to a candidate committee; (2) contributing to a political party organization; (3) soliciting funds for a candidate committee; (4) expending funds to obtain information that will be shared with a candidate committee; (5) expressly advocating the election or defeat of a candidate; and (6) "federal election activity," as defined by the Act, which includes public communications referring to a clearly identified federal candidate and that promote, support, attack, or oppose ("PASO") a candidate for that office.<sup>10</sup>

A federal candidate who concurrently runs for state or local office may solicit, receive, and spend funds outside of the Act's amount and source limitations when the solicitations, receipts, and expenditures are solely in connection with her own state or local race.<sup>11</sup> Further, where this exception does not apply, a state committee can comply with the soft money provisions of the Act by using a reasonable accounting method to determine the amount of hard and soft money in its account and then use only the hard money to pay for activities in connection with other candidates' elections.<sup>12</sup>

<sup>9</sup> 52 U.S.C. § 30125(e)(1)(A)-(B); 11 C.F.R. §§ 300.61-.62. The Commission has concluded that a federal candidate's state committee is an entity EPMC'd by the federal candidate. Advisory Op. 2007-26 (Schock) at 4 ("AO 2007-26"); Advisory Op. 2006-38 (Casey State Committee) at 4 ("AO 2006-38").

<sup>10</sup> Advisory Op. 2009-26 (State Representative Coulson) at 5 ("AO 2009-26"); AO 2007-26 at 4; AO 2006-38 at 4. "Federal election activity" also includes voter registration activity within 120 days of a federal election; voter identification, get-out-the-vote activity, or generic campaign activity for a federal election; and services provided by certain employees of a political party. 52 U.S.C. § 30101(20); 11 C.F.R. § 100.24.

<sup>11</sup> 52 U.S.C. § 30125(e)(2).

<sup>12</sup> AO 2007-26 at 3; AO 2006-38 at 3. For this purpose, the Commission has approved as reasonable the "first in, first out" and "last in, first out" accounting methods. AO 2006-38 at 3. Other accounting methods may also be reasonable.

As an extension of the Act's soft money ban, the Commission's regulations also explicitly prohibit "[t]ransfers of funds or assets from a candidate's campaign committee or account for a nonfederal election to his or her principal campaign committee or other authorized committee for a federal election . . . ."<sup>13</sup> The regulations provide, however, that when a candidate has both a federal and nonfederal committee, "at the option of the nonfederal committee, the nonfederal committee may refund contributions, and may coordinate arrangements with the candidate's principal campaign committee or other authorized committee for a solicitation by such committee(s) to the same contributors." The solicitations must be paid for by the federal committee(s).<sup>14</sup>

Below we examine the application of the soft money prohibition to each of the allegations in the Complaints.

**A. State Committee's Use of Soft Money**

**1. Contributions to and Expenditures in Support of State and Local Candidates and Committees**

First, the Complaints allege that after Chappelle-Nadal became a federal candidate, the State Committee attempted to influence her federal candidacy by spending money on activities designed to draw new voters to the polls who might also vote for her in the federal election.<sup>15</sup> Specifically, the Complaints claim that the State Committee contributed at least \$92,200 to state and local candidates and paid for a mailer endorsing state and local candidates Donna Baringer, Madeline Buthod, and Patty Ellison-Brown.<sup>16</sup> The Complaints also seem to suggest that

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<sup>13</sup> 11 C.F.R. § 110.3(d).

<sup>14</sup> *Id.*

<sup>15</sup> 1<sup>st</sup> Supp. Compl. (MUR 7106) at 1, Attach. G (Chris King, *Maria Chappelle-Nadal invests in progressive candidates she think[s] can help her win*, ST. LOUIS AMERICAN, July 21, 2016).

<sup>16</sup> Compl. (MUR 7106) at 1-2; 1<sup>st</sup> Supp. Compl. (MUR 7106) at 1; 2<sup>nd</sup> Supp. Compl. (MUR 7106) at 1 & Attach. B.

1 Baringer, Buthod, and Ellison-Brown directed Chappelle-Nadal to spend State Committee funds  
2 on the endorsement mailer.<sup>17</sup>

3 The State Committee does not deny that it made contributions to state and local  
4 candidates or that it paid for the endorsement mailer. It argues that the contributions complied  
5 fully with Missouri law and did not implicate the Act. The State Committee also asserts that it  
6 has a First Amendment right to endorse candidates and that it properly disclosed the cost of the  
7 endorsement mailer as "an in-kind contribution . . . in the 30-Day After Election report." It  
8 insists that its overall strategy to "stimulate new progressive voters to support these state and  
9 local candidates" was a "lawful coalition strategy."<sup>18</sup>

10 The State Committee's disclosure reports show that, from the time Chappelle-Nadal  
11 became a federal candidate on October 29, 2015, until the August 2, 2016 Primary Election, the  
12 State Committee made \$104,006.58 in disbursements benefiting state and local candidates and  
13 chapters of the Democratic Party. These disbursements include: (1) \$91,300 in contributions to  
14 state and local Missouri candidates' campaigns, a sum that is comprised of 29 separate  
15 contributions of \$250 to \$25,000 over an 8-month period;<sup>19</sup> (2) \$10,206.58 in expenditures on  
16 behalf of state and local Missouri candidates;<sup>20</sup> (3) \$1,500 in contributions to the Missouri

<sup>17</sup> See 2<sup>nd</sup> Supp. Compl. (MUR 7106) at 1.

<sup>18</sup> Chappelle-Nadal for Congress & George Lenard in his Official Capacity as Treasurer Resp. (MUR 7106) at 2-3 (Aug. 29, 2016) ("Federal Committee's Aug. 29, 2016 Resp."); Maria Chappelle-Nadal Resp. (MUR 7106) at 2 (Aug. 29, 2016) ("State Committee's Aug. 29, 2016 Resp."); Chappelle-Nadal for Congress & George Lenard in his Official Capacity as Treasurer Resp. (MUR 7106) at 2-3 (Sept. 26, 2016) ("Federal Committee's Sept. 26, 2016 Resp."); Maria Chappelle-Nadal Resp. (MUR 7106) at 2-3 (Sept. 26, 2016) ("State Committee's Sept. 26, 2016 Resp. ").

<sup>19</sup> These contributions are scattered across the State Committee's 2015 and 2016 reports.

<sup>20</sup> All of these expenditure appear on the State Committee's 2016 30-Day After Primary Election Report. See 2016 30-Day After Primary Election Report, Citizens for Maria Chappelle-Nadal (Sept. 1, 2016).

Democratic Party;<sup>21</sup> and (4) \$1,000 in contributions to the 4<sup>th</sup> Ward Democratic Organization.<sup>22</sup>

The available evidence also demonstrates that the State Committee spent an unknown additional sum on the mailer endorsing Baringer, Buthod, and Ellison-Brown.<sup>23</sup>

At the time of these contributions and expenditures, Chappelle-Nadal was a federal candidate, and the State Committee had soft money in its account and was continuing to raise soft money.<sup>24</sup> Though it appears that Chappelle-Nadal was simultaneously a candidate for Missouri statewide office, the soft money exception applies only to funds raised and spent for use in connection with one's own state election.<sup>25</sup> While she remained able to solicit and accept soft money funds to spend on her own state race, she was still prohibited from spending those funds on other state and local candidates' races.<sup>26</sup> Therefore, because the available evidence shows that the State Committee spent soft money in connection with non-federal elections when it contributed to state or local level candidates, and it has not demonstrated that it had

<sup>21</sup> 2016 8-Day Before General Municipal Election Report, Citizens for Maria Chappelle-Nadal (Mar. 28, 2016).

<sup>22</sup> 2016 8-Day Before Primary Election Report, Citizens for Maria Chappelle-Nadal (July 25, 2016).

<sup>23</sup> Despite the State Committee's representations, the 30-Day After Primary Election Report does not itemize expenditures for an endorsement mailer, or show any contributions to Buthod or Ellison-Brown. See 2016 30-Day After Primary Election Report, Citizens for Maria Chappelle-Nadal (Sept. 1, 2016).

<sup>24</sup> From the beginning of 2013, when it was fundraising for Chappelle-Nadal's 2014 state senatorial race, until August 2016, the State Committee raised a total of \$299,581.80. Of that amount, only \$50,430.37 (16.83%) represented hard money contributions from individuals, federal political actions committees ("PACs"), and partnerships. On the other hand, \$110,460.90 (36.87%) of the contributions came from corporations, labor unions, and federally permissible donors who exceeded the Act's contribution limits. The remaining \$138,690.53 (46.29%) came from limited liability companies ("LLCs"), which may or may not be permissible sources under the Act depending on their federal tax status, see 11 C.F.R. § 110.1(g) (stating that an LLC can elect to be treated as a corporation or a partnership by the Internal Revenue Service, and the Commission will defer to that classification in applying the Act); Missouri state PACs, which under state law could accept both hard and soft money contributions; and a mixture of other entities, including business entities with unidentified structures, unregistered PACs, and other state candidate committees. Specifically, LLCs contributed \$45,628.99, state PACs contributed \$82,225.00, and the various undefined entities contributed \$10,836.54. Accordingly, 83.17% of the State Committee's available funds were soft money or potentially soft money.

<sup>25</sup> 52 U.S.C. § 30125(e)(2); MO. REV. STAT. § 130.011 (stating that a person becomes a "candidate" under Missouri law when he or she files a declaration of candidacy).

<sup>26</sup> 52 U.S.C. § 30125(e)(2).



1 \$104,006.58 of hard money isolated using a reasonable accounting method, we recommend that  
2 the Commission find reason to believe that Chappelle-Nadal and her State Committee violated  
3 the Act's § 30125(e)(1)(B) soft money prohibition.

4 However, we recommend that the Commission find no reason to believe that Baringer,  
5 Buthod, and Ellison-Brown violated 52 U.S.C. § 30125(e)(1)(B) by directing the State  
6 Committee to spend soft money on the endorsement mailer. First, the Complaints are  
7 speculative and contain no evidence that the candidates requested Chappelle-Nadal's  
8 endorsement. Baringer even filed a Response stating that she "had no knowledge" of the mailer  
9 and did not "authorize or approve it,"<sup>27</sup> and Ellison-Brown stated that she has "never . . .  
10 communicated with [the] Chappelle-Nadal campaign for her support in anyway" and was  
11 unaware that the mailer existed until receiving the Complaint.<sup>28</sup> Second, even if there was  
12 evidence that the candidates directed the State Committee to pay for the mailer,  
13 section 30125(e)(1) would not apply to their activities. As outlined above, that provision  
14 governs the behavior of federal candidates, the agents of federal candidates, and entities EFMC'd  
15 by federal candidates.<sup>29</sup> Baringer, Buthod, and Ellison-Brown do not fit into any of those  
16 categories.

17 2. Television Advertisements

18 The Complaints also allege that the State Committee, beginning in July 2016, paid  
19 Spectrum Reach TM ("Spectrum Reach") \$14,450.85 for 1,119 television advertisements  
20 promoting Chappelle-Nadal's federal candidacy, and that the Federal Committee failed to

<sup>27</sup> Donna Baringer Resp. (MUR 7106) at 1 (Sept. 14, 2016).

<sup>28</sup> Patty Ellison-Brown Resp. (MUR 7106) at 1 (Sept. 26, 2016). Buthod did not respond to the Complaints.

<sup>29</sup> 52 U.S.C. § 30125(e)(1).

1 disclose this in-kind contribution.<sup>30</sup> The State Committee denies making any in-kind  
2 contributions to Chappelle-Nadal's Federal Committee. Respondents explain that Spectrum  
3 Reach erroneously billed the State Committee instead of the Federal Committee for the  
4 television advertisements. The State Committee wrote a check but realized the error and  
5 canceled it. The Respondents assert that the Federal Committee ultimately paid for the  
6 commercials and stated that it would disclose the expense on its upcoming Commission report.<sup>31</sup>  
7 The Federal Committee provided a copy of a \$14,450 check from the Federal Committee to  
8 Spectrum Reach and Spectrum Reach's confirmation of receipt of the check.<sup>32</sup> Further, a review  
9 of the Federal Committee's filings shows that the Committee reported the \$14,450 disbursement  
10 to Spectrum Reach on its 2016 October Quarterly Report.<sup>33</sup>

11 Because the available information shows that the State Committee did not pay Spectrum  
12 Reach for television advertisements connected to Chappelle-Nadal's federal candidacy, we  
13 recommend that the Commission find no reason to believe that the State Committee or the  
14 Federal Committee violated 52 U.S.C. § 30125(e)(1)(A) by making and accepting, respectively,  
15 an impermissible in-kind contribution in connection with the television advertisements, or that  
16 the Federal Committee violated 52 U.S.C. § 30104(b) and 11 C.F.R. § 104.13(a) by failing to  
17 report the alleged in-kind contribution from the State Committee. We similarly recommend that  
18 the Commission find no reason to believe that Spectrum Reach violated 52 U.S.C.  
19 § 30125(e)(1)(A) in connection with this allegation.

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<sup>30</sup> 2<sup>nd</sup> Supp. Compl. (MUR 7106) at 1 & Attach. A.

<sup>31</sup> State Committee's Sept. 26, 2016 Resp. (MUR 7106) at 2; *see also* Federal Committee's Sept. 26, 2016 Resp. (MUR 7106) at 2.

<sup>32</sup> Federal Committee's Sept. 26, 2016 Resp. (MUR 7106), Attachs. A-B.

<sup>33</sup> 2016 October Quarterly Report, Chappelle-Nadal for Congress (Oct. 15, 2016).

1                    3.     Toxic Waste Newspaper Advertisement

2                    The Complaints further allege that the State Committee paid for a radio advertisement for  
3                    the Federal Committee, and that the Federal Committee failed to disclose the in-kind  
4                    contribution.<sup>34</sup> The Respondents deny that the State Committee paid for a radio advertisement  
5                    supporting Chappelle-Nadal's federal candidacy. They assert that the expenditure to which the  
6                    Complaints refer was for a newspaper advertisement in the form of a letter from Chappelle-  
7                    Nadal to residents of St. Louis, entitled "Radioactive Waste: Toxic Waste Dumped Across  
8                    St. Louis County." The article detailed the location of the toxic waste and its possible health  
9                    effects. It then encouraged "everyone to contact their local, state and federal representatives and  
10                   demand action." The Respondents acknowledge that radioactive waste is a "signature issue" for  
11                   Chappelle-Nadal, but claim that Chappelle-Nadal published this article as a constituent  
12                   communication in her continuing role as a state senator, and not as a campaign communication.<sup>35</sup>

13                   As noted above, activities are covered within the scope of section 30125(e) if they are "in  
14                   connection" with an election, for example, if they solicit funds, expressly advocate for a  
15                   candidate's election, or constitute "federal election activity" including public communications  
16                   referring to a clearly identified federal candidate and that PASO a candidate for that office.<sup>36</sup> It  
17                   does not appear that Chappelle-Nadal's newspaper advertisement calling for action on a toxic  
18                   waste site near St. Louis was connected to any election. The advertisement was a public  
19                   communication that clearly identified a federal candidate,<sup>37</sup> Chappelle-Nadal, but the

<sup>34</sup> 1<sup>st</sup> Supp. Compl. (MUR 7106) at 1.

<sup>35</sup> Federal Committee's Aug. 29, 2016 Resp. (MUR 7106) at 2; State Committee's Aug. 29, 2016 Resp. (MUR 7106), Attach. B.

<sup>36</sup> AO 2009-26 at 5; AO 2007-26 at 4; AO 2006-38 at 4.

<sup>37</sup> The Act defines "public communication" to include a communication by means of any newspaper. 52 U.S.C. § 30101(22).

Commission has determined that the “mere identification of an individual who is a Federal candidate does not, in itself, promote, support, attack or oppose that candidate.”<sup>38</sup> Furthermore, the Commission has concluded that a statement of a federal candidate’s previous or ongoing legislative efforts does not PASO that candidate.<sup>39</sup> Because the newspaper advertisement here simply identified Chappelle-Nadal, discussed her previous efforts to eradicate the toxic waste, and did not identify any other candidate, we conclude the article did not PASO any candidate, and therefore did not qualify as “federal election activity.”

In addition, the toxic waste advertisement did not solicit money, gather information about potential voters, or expressly advocate the election or defeat of any candidate. The communication was directed to the constituents of Chappelle-Nadal’s state senatorial district and functioned to raise awareness of a public health risk and propose steps for solving the problem. In doing so, the advertisement was akin to the type of communications commonly produced by state officeholders. The mere fact that Chappelle-Nadal planned to continue her efforts to clean up the waste if elected to Congress did not transform the newspaper advertisement from a constituent communication into a campaign advertisement.<sup>40</sup>

As the available evidence indicates that the State Committee did not publish the toxic waste advertisement “in connection” with any election, we recommend that the Commission find no reason to believe that the State and Federal Committees violated 52 U.S.C. § 30125(e) by unlawfully spending or receiving soft money. As such, we also recommend that the Commission

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<sup>38</sup> AO 2009-26 at 7.

<sup>39</sup> See *id.* at 9 (concluding that a state representative running for Congress could spend soft money on a “health care legislative update” letter to her state constituents because the letter, though it discussed her policy achievements, did not PASO her or any of her opponents).

<sup>40</sup> *Id.* (“[A] State officeholder’s declaration of Federal candidacy does not automatically alter the character of the candidate’s activities routinely engaged in as a State officeholder.”).

1 find no reason to believe that the Federal Committee violated 52 U.S.C. § 30104(b) and 11  
2 C.F.R. § 104.13(a) by failing to report an in-kind contribution from the State Committee.

3 4. Web Services

4 Finally, the Complaints allege that the State Committee paid for the Federal Committee's  
5 web services, and that the Federal Committee failed to disclose the in-kind contribution from the  
6 State Committee.<sup>41</sup> The Complaints observe that the Federal Committee maintains a website,  
7 Facebook page, and Twitter account, but has never disclosed any expenses for hosting these  
8 platforms. The State Committee, on the other hand, disclosed a \$508 disbursement to Local  
9 Politech Strategies for "data maintenance and website hosting" on its 2015 Year-End Report,  
10 even though Chappelle-Nadal was not actively campaigning for state office.<sup>42</sup> The Complaints  
11 therefore allege that the State Committee's disbursement to Local Politech Strategies was for  
12 "data maintenance and website hosting" in connection with Chappelle-Nadal's federal  
13 campaign.<sup>43</sup>

14 The State Committee denies paying for the Federal Committee's web expenses. It states  
15 that the \$508 disbursement to Local Politech Strategies was for "EyesOnFerguson.com," a now-  
16 defunct website Chappelle-Nadal created to inform people living in her state senatorial district  
17 about the unrest in Ferguson, and not a payment for the Federal Committee's campaign website  
18 and social media accounts.<sup>44</sup> The State Committee attached to its Response a copy of an invoice  
19 from Local Politech Strategies for \$508.20 in web services. The invoice shows that the State  
20 Committee agreed to pay \$36.30 a month beginning in September 2014 for "EyesOnFerguson

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<sup>41</sup> Compl. (MUR 7106) at 1.

<sup>42</sup> *Id.*

<sup>43</sup> *Id.*

<sup>44</sup> State Committee's Aug. 29, 2016 Resp. (MUR 7106) at 3.

1 NationBuilder hosting.”<sup>45</sup> To explain the Federal Committee’s failure to disclose disbursements  
2 for web services, Respondents advise that the Progressive Change Campaign Committee  
3 (“PCCC”) provided Chappelle-Nadal’s congressional campaign website and social media  
4 platforms free of charge, and the Federal Committee would report the services as an in-kind  
5 contribution “at the appropriate time.”<sup>46</sup> Based on this information contradicting the  
6 Complaints’ allegations, we recommend that the Commission find no reason to believe that the  
7 State Committee made an in-kind contribution of web services to the Federal Committee, or that  
8 the Federal Committee accepted and failed to report such a contribution, in violation of 52  
9 U.S.C. §§ 30104(b) and 30125(e)(1)(A) and 11 C.F.R. § 104.13(a).

10 Nevertheless, the State Committee may still have violated the Act by spending soft  
11 money on “EyesOnFerguson.com” if the website was “in connection” with any election. A  
12 review of archival images of “EyesOnFerguson.com” shows that the website did not solicit  
13 money for any candidate, did not advocate the election or defeat of any candidate, did not gather  
14 information for any campaign’s use, and did not engage in “federal election activity.”<sup>47</sup> As was  
15 the case with the toxic waste advertisement, the website’s mere identification of Chappelle-  
16 Nadal and her involvement with the political events that followed the Ferguson unrest did not  
17 PASO her or any other candidate. Accordingly, we conclude that the website was not “in  
18 connection” with any election, and we recommend that the Commission find no reason to believe  
19 that the State Committee’s activities violated 52 U.S.C. § 30125(e)(1)(A).

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<sup>45</sup> *Id.*, Attach. A.

<sup>46</sup> *Id.* at 3.

<sup>47</sup> *Wayback Machine*, INTERNET ARCHIVE, <http://archive.org/web/> (last visited Jan. 30, 2017) (enter “www.EyesOnFerguson.com” into the search bar to review images of what the now-defunct website once looked like).

1       We note, however, that the Respondents admitted that the Federal Committee was  
2       receiving in-kind contributions from the PCCC for web services, and a review of the Federal  
3       Committee's Commission reports shows that it has failed to disclose those contributions.<sup>48</sup>  
4       Though this is a violation, we do not recommend that the Commission take any action other than  
5       to send a letter of caution. The potential amount in violation appears to be *de minimis*—given  
6       that Chappelle-Nadal for Congress's campaign website ("maria2016.com") was not particularly  
7       sophisticated and hosting "EyesOnFerguson.com," which was comparable in sophistication, cost  
8       only \$36.30 a month.<sup>49</sup> We believe that pursuing the violation under these circumstances would  
9       not be an efficient use of Commission resources.<sup>50</sup>

10       **B.     Use of Soft Money by Other Committees**

11       The Complaints further allege that state and local candidates who received contributions  
12       from the State Committee, including Jay Mosley, Rochelle Walton Gray, and Linda Weaver,  
13       violated the Act by using soft money to pay for a door hanger supporting Chappelle-Nadal's  
14       congressional campaign.<sup>51</sup> The Complaints imply that Chappelle-Nadal instructed those  
15       candidates, in addition to Marty Murray, who was involved with the creation of a second door  
16       hanger, to use the contributions received from the State Committee to support her federal  
17       candidacy in this fashion.<sup>52</sup> The Complaints therefore make allegations against the Federal  
18       Committee, in addition to Mosley, Walton Gray, and Weaver, claiming that the door hangers

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<sup>48</sup>     State Committee's Aug. 29, 2016 Resp. (MUR 7106) at 3.

<sup>49</sup>     *Id.* & Attach. A.

<sup>50</sup>     *Cf. Heckler v. Chaney*, 470 U.S. 821 (1985).

<sup>51</sup>     *See* Compl. (MUR 7108) at 1 (July 18, 2016).

<sup>52</sup>     1<sup>st</sup> Supp. Compl. (MUR 7106) at 1 & Attach. F (Rachel Lippmann, 'Young Turks' in the city look to shape Democratic Party, one seat at a time, ST. LOUIS PUBLIC RADIO, July 21, 2016); Compl. (MUR 7108) at 1.

1 were coordinated expenditures that the Federal Committee failed to disclose as in-kind  
2 contributions.<sup>53</sup>

3 In support of these allegations, the Complaints reference a picture from an online news  
4 article that shows local candidate Marty Murray handing a Chappelle-Nadal door hanger to a  
5 resident.<sup>54</sup> They also enclose a copy of the other mentioned door hanger, which encourages  
6 people to "Vote Democratic & Elect" Chappelle-Nadal and state and local candidates Jay  
7 Mosley, Rochelle Walton Gray, Tony Weaver, and Linda Weaver. The door hanger has a  
8 disclaimer that states, "Paid for by Citizens to Elect Gray, Angela Mosley, Treasurer & by  
9 Citizens to Elect Jay Mosley, LLC, Angela Mosley, Treasurer."<sup>55</sup>

10 The Respondents deny any wrongdoing with regard to the door hangers. They explain  
11 that the first door hanger in question actually had two sides—one side supporting Chappelle-  
12 Nadal for Congress and the other side supporting Murray for Seventh Ward Committeeman. The  
13 Federal Committee states that it "split" the cost of the door hanger with Murray's committee.<sup>56</sup>  
14 An attached copy of the door hanger shows that each candidate used one side of the door hanger,  
15 with Chappelle-Nadal's side bearing a "Paid for by Chappelle-Nadal for Congress" disclaimer,  
16 and Murray's side bearing a "Paid for by the Committee to Elect Marty Murray" disclaimer.<sup>57</sup>  
17 The Federal Committee also attached to its Response a June 10, 2016 invoice for 500 door

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<sup>53</sup> 1<sup>st</sup> Supp. Compl. (MUR 7106) at 1; Compl. (MUR 7108) at 1.

<sup>54</sup> 1<sup>st</sup> Supp. Compl. (MUR 7106) at 1 & Attach. F.

<sup>55</sup> Compl. (MUR 7108), Attach. A.

<sup>56</sup> Federal Committee's Aug. 29, 2016 Resp. (MUR 7106) at 2-3.

<sup>57</sup> *Id.*, Attach. A.



1 hangers from Ink Spot, Inc., and a check from the Federal Committee to Ink Spot, Inc. written on  
2 the same day.<sup>58</sup>

3 As to the door hanger displaying five candidates, the Federal Committee denies  
4 coordinating with Gray and Mosley in its creation and/or distribution. It states that the  
5 contributions made by the State Committee to Gray and Mosley were solely for the purpose of  
6 supporting their campaigns and any "[d]ecisions concerning expenditure of those funds, once  
7 contributed, were entirely at the discretion of the Gray and Mosley candidate committees."<sup>59</sup>

8 Mosley's committee, Gray's committee, and Linda Weaver also jointly responded to the  
9 Complaints, stating that "there was no coordination, agreement or direction given . . . by Maria  
10 Chappelle Nadal that they were to include her congressional candidacy on said door hanger or on  
11 any campaign materials in exchange for the campaign contributions from her statewide campaign  
12 committee."<sup>60</sup> They aver that the political organization to which they belonged asked them to  
13 include Chappelle-Nadal on the door hanger and that they did so without communicating with  
14 her.<sup>61</sup> The committees further state that, though it was their intention for Mosley's and Gray's  
15 committees to share the cost of the door hanger, Gray's committee paid the entire cost of  
16 \$356.56.<sup>62</sup> They attach a copy of the order confirmation, which bills Citizens to Elect Gray for  
17 the door hangers.<sup>63</sup>

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<sup>58</sup> *Id.*, Attachs. B-C. The invoice was for \$167.37, while the check was for \$292.35. *Id.*, Attachs. B-C. The Federal Committee does not explain the discrepancy. However, it does not appear that Chappelle-Nadal for Congress paid for Murray's half of the door hangers because \$167.37 doubled is \$334.74.

<sup>59</sup> Chappelle-Nadal for Congress & George Lenard in his Official Capacity as Treasurer Resp. (MUR 7108) at 2 (Aug. 15, 2016).

<sup>60</sup> Citizens to Elect Gray and Angela Mosley in her Official Capacity as Treasurer, Citizens to Elect Jay Mosley State Committee LLC and Angela D. Mosley in her Official Capacity as Treasurer & Linda Weaver Joint Resp. (MUR 7108) at 3.

<sup>61</sup> *Id.*

<sup>62</sup> *Id.* at 2.

<sup>63</sup> *Id.*, Attach. F.

1           The Act prohibits state and local candidates from spending funds on public  
2     communications that refer to a clearly identified candidate for federal office and PASO a  
3     candidate for that office, unless the funds are in amounts and from sources permitted by the Act,  
4     and are subject to the Act's reporting requirements.<sup>64</sup> State and local candidate committees can  
5     only make such expenditures if they employ a reasonable accounting method to be sure the  
6     communication is paid for with federally permissible funds.<sup>65</sup>

7           A state or local candidate can, however, partner with federal candidates to produce a  
8     communication supporting all of their campaigns.<sup>66</sup> So long as each candidate pays for her  
9     allocable share of the communication, no candidate makes a coordinated expenditure or  
10    contribution to any other.<sup>67</sup> The Commission's regulations state that, when candidates partner to  
11    make a publication, they must allocate the costs based on "the proportion of space . . . devoted to  
12    each candidate as compared to the total space . . . devoted to all candidates."<sup>68</sup>

13           1.     Murray Door Hanger

14           The available evidence indicates that Chappelle-Nadal and Murray partnered in the  
15    production of the door hanger at issue. Each candidate occupied one half of the space on the  
16    door hanger, and each candidate appears to have paid for one half of the costs associated with the

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<sup>64</sup>     52 U.S.C. § 30125(f), *cross-referencing id.* § 30101(20)(A)(iii).

<sup>65</sup>     AO 2007-26 at 3; AO 2006-38 at 3.

<sup>66</sup>     11 C.F.R. § 106.1(a).

<sup>67</sup>     Advisory Op. 2006-11 (Washington Democratic State Central Committee) at 3 ("AO 2006-11")  
(concluding that a state political party that wished to distribute a flier featuring one clearly identified federal  
candidate with other "generically referenced candidates of the State Party Committee" had to pay for the correct  
proportion of the space used to promote the non-federal candidates, or it would be making a contribution to the  
federal candidate or a coordinated expenditure with the federal candidate).

<sup>68</sup>     11 C.F.R. § 106.1(a). While this regulation applies only to expenditures made on behalf of "more than one  
clearly identified federal candidate," the Commission has applied the principle of allocation to situations in which  
only one federal candidate appears in a communication. *See* AO 2006-11 at 2-4.

1 door hanger. Therefore, the candidates correctly allocated the costs and avoided making a  
2 contribution to the other's committee.

3 Because Murray did not make a contribution to Chappelle-Nadal's Federal Committee, or  
4 a coordinated expenditure on her behalf, the Federal Committee did not have an obligation to  
5 report a contribution from Murray. Furthermore, because Chappelle-Nadal paid for her allocable  
6 share of the door hanger with funds from her Federal Committee, there was no soft money  
7 violation. We therefore recommend that the Commission find no reason to believe that the  
8 Federal Committee violated 52 U.S.C. §§ 30104(b), 30125(e)(1)(A), or 11 C.F.R. § 104.13(a)  
9 with regard to this door hanger.<sup>69</sup>

10 2. Five-Candidate Door Hanger

11 As to the door hanger featuring Chappelle-Nadal and four non-federal candidates, the  
12 available evidence indicates that Citizens to Elect Gray, a Missouri political committee free to  
13 collect soft money, paid for the entirety of the communication. However, because Chappelle-  
14 Nadal occupied less than one-fifth of the space on the door hanger, the potential amount in  
15 violation is less than \$71.31 ( $\$356.56 \div 5$ ).<sup>70</sup> Given this *de minimis* amount, and the fact that this  
16 is the only allegation against Citizens to Elect Gray, we recommend that the Commission dismiss  
17 the section 30125(f) allegation as a matter of prosecutorial discretion.<sup>71</sup> Furthermore, because  
18 there is no evidence that Linda Weaver or Citizens to Elect Jay Mosley paid for the door hanger,  
19 we recommend finding no reason to believe that they violated 52 U.S.C. § 30125(f).<sup>72</sup>

<sup>69</sup> Murray was not named as a Respondent, and in any event, he complied with the Act by paying for his share of the door hanger.

<sup>70</sup> While each candidate occupied equal space on the front of the door hanger, the back of the door hanger was completely dedicated to Mosley and Gray. Compl. (MUR 7108), Attach. A.

<sup>71</sup> *Heckler*, 470 U.S. 821.

<sup>72</sup> Tony Weaver was not named as a Respondent, and in any event, there is no evidence that he violated the § 30125(f) because he did not contribute to the door hanger.

1 As to the allegations against Chappelle-Nadal's Committees, the Respondents deny that  
2 Chappelle-Nadal or either of her Committees directed Citizens to Elect Gray to make the door  
3 hanger or told Citizens to Elect Gray how to use any of the funds contributed by the State  
4 Committee. Because there is no evidence contradicting these statements, we recommend that the  
5 Commission find no reason to believe that Chappelle-Nadal or her State and Federal Committees  
6 violated the Act by directing the use of soft money for this door hanger, in violation of 52 U.S.C.  
7 § 30125(e)(1)(A).<sup>73</sup> Relatedly, because there is no evidence that the Federal Committee  
8 coordinated with Citizens to Elect Gray in the creation and distribution of the door hanger,<sup>74</sup> the  
9 Federal Committee did not have to report the door hanger as an in-kind contribution.<sup>75</sup>  
10 Therefore, we also recommend that the Commission find no reason to believe that the Federal  
11 Committee violated 52 U.S.C. § 30104(b) and 11 C.F.R. § 104.13(a)'s reporting requirements.

12 As a result of these substantive recommendations, we recommend that the Commission  
13 close the file as to MUR 7108, because we are not recommending that the Commission proceed  
14 as to any of the allegations in that matter.

15 **C. Transfers Between State and Federal Committees**

16 Finally, the Complaints allege that the State Committee made two unlawful transfers to  
17 the Federal Committee. First, the Complaints allege that the State Committee transferred \$1,000  
18 to the Federal Committee on December 31, 2015. The State Committee disclosed the

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<sup>73</sup> 52 U.S.C. § 30125(e)(1)(A) (prohibiting federal candidates from "spending" and "directing" soft money in connection with an election for federal office).

<sup>74</sup> In order for an activity to be coordinated under the Commission's regulations, among other requirements, it must meet at least one of five enumerated conduct standards, 11 C.F.R. § 109.21(a)(3). Those standards are: request or suggestion; material involvement; substantial discussion; common vendor; and former employee or independent contractor. *Id.* § 109.21(c)(1)-(5); *see also* 52 U.S.C. § 30116(a)(7)(B). There is no evidence relating to any of these standards.

<sup>75</sup> 11 C.F.R. § 109.21(b)(1) (stating that a coordinated communication must be reported in the same way as an in-kind contribution); *see also* 52 U.S.C. § 30116(a)(7)(B).

disbursement on its 2015 Year-End Report to the Missouri Ethics Commission, but the Federal Committee failed to disclose the transfer on any of its reports.<sup>76</sup> Second, the Complaints observe from the Committees' reports that Sandy Tsai contributed \$14,000 to the State Committee in 2013, but the State Committee refunded the full amount of the contribution on December 10, 2015.<sup>77</sup> On December 29, 2015, Tsai then made a \$2,500 contribution to the Federal Committee which, the Complaints argue, was another "inappropriate transfer of funds."<sup>78</sup>

The State and Federal Committees deny that the \$1,000 transfer occurred. They assert that, while the State Committee wrote a \$1,000 check to the Federal Committee and disclosed the disbursement on its Missouri Ethics Commission Year-End Report, one of the Committees thereafter realized that the transfer should not occur. The State Committee canceled the check before the Federal Committee deposited it, and the State Committee filed an Amended Year-End Report to remove the transfer. Accordingly, the Respondents argue, the transfer never came to fruition, and the Federal Committee did not have a reporting obligation because it never deposited the check.<sup>79</sup>

The Respondents do not deny that Tsai received a \$14,000 refund from the State Committee and then made a contribution to the Federal Committee. They state that Tsai requested the refund, and that the State Committee did not violate the Act by complying with her request.<sup>80</sup>

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<sup>76</sup> Compl. (MUR 7106) at 1.

<sup>77</sup> *Id.*; Amended 2015 Year-End Report, Citizens for Maria Chappelle-Nadal (Feb. 1, 2016).

<sup>78</sup> Compl. (MUR 7106) at 1.

<sup>79</sup> Chappelle-Nadal for Congress & George Lenard in his Official Capacity as Treasurer Resp. (MUR 7106) at 2 (Aug. 3, 2016) ("Federal Committee's Aug. 3, 2016 Resp."); State Committee's Aug. 29, 2016 Resp. (MUR 7106) at 2-3.

<sup>80</sup> Federal Committee's Aug. 3, 2016 Resp. (MUR 7106) at 1; State Committee's Aug. 29, 2016 Resp. (MUR 7106) at 2.

1       The available evidence supports the Respondents' position that the Committees never  
2 completed the \$1,000 transfer of funds from the State Committee to the Federal Committee. The  
3 State Committee's 2015 Year-End Report disclosed a \$1,000 contribution to the Federal  
4 Committee, but the State Committee filed an amended report shortly thereafter, removing the  
5 contribution.<sup>81</sup> Furthermore, the Federal Committee never reported a \$1,000 transfer or  
6 contribution from the State Committee.<sup>82</sup> These reports corroborate the Committees' statements  
7 that the check was canceled before the Federal Committee could deposit it.

8       Furthermore, the Commission's published guidance to congressional candidate  
9 committees states that there is no reporting obligation when a committee returns a contribution to  
10 a donor without depositing it.<sup>83</sup> A "return" is analogous to the situation presented in this matter,  
11 as the Federal Committee never deposited the check, and the funds reverted back to the State  
12 Committee. Thus, treating the transaction here as a kind of return, the Federal Committee was  
13 not required to report a \$1,000 transfer.

14       The available evidence also indicates that Tsai asked the State Committee to refund her  
15 contribution, and there is no evidence that the State Committee paid to solicit her for her  
16 subsequent contribution to the Federal Committee. Therefore, we recommend that the  
17 Commission find no reason to believe that the State Committee, the Federal Committee, or Tsai  
18 violated 52 U.S.C. §§ 30125(e)(1)(A), 30104(b), and 11 C.F.R. § 110.3(d) with regard to the

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<sup>81</sup> 2015 Year-End Report, Citizens for Maria Chappelle-Nadal (Jan. 15, 2016); Amended 2015 Year-End Report, Citizens for Maria Chappelle-Nadal (Feb. 1, 2016).

<sup>82</sup> See 2015 Year-End Report, Chappelle-Nadal for Congress (Jan. 29, 2016).

<sup>83</sup> FED. ELECTION COMM., *Federal Election Commission Campaign Guide: Congressional Candidates and Committees* (June 2014) at 112, available at <http://www.fec.gov/pdf/candgui.pdf> ("[A] committee may return a contribution to the donor without depositing it, although the return must be made within 10 days . . . . In this case, the committee does not have to report . . . .").

1 allegations of transfers between the State and Federal Committees and the alleged reporting  
2 deficiency.

15 **IV. RECOMMENDATIONS**

- 16 1. Find reason to believe that Maria Chappelle-Nadal and Citizens for Maria  
17 Chappelle-Nadal and Neva Taylor in her official capacity as treasurer violated 52  
18 U.S.C. § 30125(e)(1)(B);
- 19 2. Dismiss the allegation that Citizens to Elect Gray and Angela Mosley in her  
20 official capacity as treasurer violated 52 U.S.C. § 30125(f);
- 21 3. Dismiss the allegation that Chappelle-Nadal for Congress and George Lenard in  
22 his official capacity as treasurer violated 52 U.S.C. § 30104(b) and 11 C.F.R.  
23  
24

§ 104.13(a) by failing to disclose the in-kind contribution of web services and send a cautionary letter;

4. Find no reason to believe that Spectrum Reach TM, Madeline Buthod, Patty Ellison-Brown, Donna Baringer, Sandy Tsai, Citizens to Elect Jay Mosley State Committee LLC and Angela D. Mosley in her official capacity as treasurer, or Linda Weaver violated 52 U.S.C. § 30125(e)(1)(A), (e)(1)(B), and (f) and 11 C.F.R. § 110.3(d);
5. Close the file as to Chappelle-Nadal for Congress and George Lenard in his official capacity as treasurer, Citizens to Elect Gray and Angela Mosley in her official capacity as treasurer, Spectrum Reach TM, Madeline Buthod, Patty Ellison-Brown, Donna Baringer, Sandy Tsai, Citizens to Elect Jay Mosley State Committee LLC and Angela D. Mosley in her official capacity as treasurer, and Linda Weaver;
6. Close MUR 7108;
7. Approve the attached Factual and Legal Analyses;
- 8.
- 9.
10. Approve the appropriate letters.

Lisa J. Stevenson  
Acting General Counsel

Date

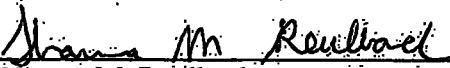
1-31-17

Kathleen Guith

Associate General Counsel for Enforcement



  
Lynn Y. Tran  
Assistant General Counsel

  
Shanna M. Reulbach  
Attorney

Attachments

1. Factual and Legal Analysis for Maria Chappelle-Nadal, Chappelle-Nadal for Congress and George Lenard in his official capacity as treasurer, and Citizens for Maria Chappelle-Nadal and Neva Taylor in her official capacity as treasurer
2. Factual and Legal Analysis for Spectrum Reach TM
3. Factual and Legal Analysis for Madeline Buthod
4. Factual and Legal Analysis for Patty Ellison-Brown
5. Factual and Legal Analysis for Donna Baringer
6. Factual and Legal Analysis for Citizens to Elect Gray and Angela Mosley in her official capacity as treasurer
7. Factual and Legal Analysis for Citizens to Elect Jay Mosley State Committee LLC and Angela D. Mosley in her official capacity as treasurer and Linda Weaver
8. Factual and Legal Analysis for Sandy Tsai

## FEDERAL ELECTION COMMISSION

### FACTUAL AND LEGAL ANALYSIS

RESPONDENTS: Maria Chappelle-Nadal MURs: 7106 & 7108  
Chappelle-Nadal for Congress and George  
Lenard in his official capacity as treasurer  
Citizens for Maria Chappelle-Nadal and Neva  
Taylor in her official capacity as treasurer

#### I. INTRODUCTION

These matters were generated by Complaints filed with the Federal Election Commission (the "Commission") by Michelle C. Clay and Mary Patricia Dorsey. The Complaints, together with their supplements, allege that Maria Chappelle-Nadal, a Missouri State Senator and 2016 candidate for the U.S. House of Representatives, and her state and federal campaign committees violated the soft money prohibitions in the Federal Election Campaign Act of 1971, as amended (the "Act"). The Complaints argue that Citizens for Maria Chappelle-Nadal (the "State Committee") influenced Chappelle-Nadal's federal candidacy by making contributions to state and local candidates, coordinating with state and local candidates to create and distribute door hangers, and providing in-kind contributions and transfers to her federal committee, Chappelle-Nadal for Congress (the "Federal Committee"). The Complaints also allege that the Federal Committee failed to comply with the Act's reporting requirements.

#### II. FACTUAL & LEGAL ANALYSIS

In 2003, Chappelle-Nadal registered Citizens for Maria Chappelle-Nadal with the Missouri Ethics Commission. She successfully ran for the Missouri House of Representatives in 2004, 2006, and 2008, and for the Missouri State Senate in 2010 and 2014.<sup>1</sup> After the 2014

<sup>1</sup> CO31173: *Citizens for Maria Chappelle-Nadal*, MO. ETHICS COMM'N, [http://mec.mo.gov/MEC/Campaign\\_Finance/CF11\\_CommitInfo.aspx](http://mec.mo.gov/MEC/Campaign_Finance/CF11_CommitInfo.aspx) (last visited Jan. 30, 2017).

1 election, she was term-limited from running for the Missouri State Senate again.<sup>2</sup> At that time,  
2 she had approximately \$200,000 in her State Committee's account.<sup>3</sup> In January 2015,  
3 Chappelle-Nadal amended the State Committee's Statement of Organization to reflect that she  
4 would be running for statewide office in 2020.<sup>4</sup>

5 Chappelle-Nadal also filed a Statement of Candidacy for Missouri's First Congressional  
6 District on October 6, 2015, and on the same day she registered Chappelle-Nadal for Congress as  
7 her principal campaign committee.<sup>5</sup> As of October 29, 2015, the Federal Committee had  
8 collected over \$5,000 in contributions, making Chappelle-Nadal a federal candidate under the  
9 Act.<sup>6</sup> She lost to her incumbent opponent in the August 2, 2016 Democratic Primary Election.

10 The Complaints in these matters allege that the Respondents violated the Act's soft  
11 money prohibition because (1) the State Committee used soft money to influence Chappelle-  
12 Nadal's congressional election; (2) other state and local candidates spent soft money in  
13 connection with Chappelle-Nadal's federal election; and (3) the State Committee transferred  
14 funds to the Federal Committee.<sup>7</sup> The Act's soft money provision prohibits federal candidates,  
15 their agents, and entities established, financed, maintained, or controlled ("EFMC'd") by federal

<sup>2</sup> MO. CONST. art. III, § 8.

<sup>3</sup> 2014 30-Day After General Election Report, Citizens for Maria Chappelle-Nadal (Dec. 4, 2014).

<sup>4</sup> Amended Statement of Committee Organization, Citizens for Maria Chappelle-Nadal (Jan. 28, 2015). To any extent that the Complaints are alleging that Chappelle-Nadal acted wrongfully in declaring her intent to run for statewide office, without specifying which position she is seeking, that is a matter of Missouri law and outside the Commission's jurisdiction. *See* Compl. (MUR 7106) at 1 (July 11, 2016); 1<sup>st</sup> Supp. Compl. (MUR 7106) at 1 (Aug. 4, 2016); 2<sup>nd</sup> Supp. Compl. (MUR 7106) at 1 (Aug. 30, 2016).

<sup>5</sup> Statement of Organization, Chappelle-Nadal for Congress (Oct. 6, 2015); Statement of Candidacy, Maria Chappelle-Nadal (Oct. 6, 2015).

<sup>6</sup> 52 U.S.C. § 30101(2)(A) (stating that a person becomes a "candidate" when she receives contributions aggregating over \$5,000); 2015 Year-End Report, Chappelle-Nadal for Congress (Jan. 29, 2016).

<sup>7</sup> Under Missouri law, candidates can accept unlimited contributions and contributions from corporations and labor unions. MO. REV. STAT. §§ 130.011-.160 (providing no contribution limit); *id.* § 130.029 (stating that corporations and labor organizations may make contributions).

1 candidates from soliciting, receiving, directing, transferring, or spending funds “in connection”  
2 with any federal or non-federal election unless the funds are in amounts and from sources  
3 permitted by the Act.<sup>8</sup>

4 The Commission has provided guidance on the types of activities that are “in connection”  
5 with an election. Such activities include, but are not limited to: (1) contributing to a candidate  
6 committee; (2) contributing to a political party organization; (3) soliciting funds for a candidate  
7 committee; (4) expending funds to obtain information that will be shared with a candidate  
8 committee; (5) expressly advocating the election or defeat of a candidate; and (6) “federal  
9 election activity,” as defined by the Act, which includes public communications referring to a  
10 clearly identified federal candidate and that promote, support, attack, or oppose (“PASO”) a  
11 candidate for that office.<sup>9</sup>

12 A federal candidate who concurrently runs for state or local office may solicit, receive,  
13 and spend funds outside of the Act’s amount and source limitations when the solicitations,  
14 receipts, and expenditures are solely in connection with her own state or local race.<sup>10</sup> Further,  
15 where this exception does not apply, a state committee can comply with the soft money  
16 provisions of the Act by using a reasonable accounting method to determine the amount of hard

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<sup>8</sup> 52 U.S.C. § 30125(e)(1)(A)-(B); 11 C.F.R. §§ 300.61-.62. The Commission has concluded that a federal candidate’s state committee is an entity EFMC’d by the federal candidate. Advisory Op. 2007-26 (Schock) at 4 (“AO 2007-26”); Advisory Op. 2006-38 (Casey State Committee) at 4 (“AO 2006-38”).

<sup>9</sup> Advisory Op. 2009-26 (State Representative Coulson) at 5 (“AO 2009-26”); AO 2007-26 at 4; AO 2006-38 at 4. “Federal election activity” also includes voter registration activity within 120 days of a federal election; voter identification, get-out-the-vote activity, or generic campaign activity for a federal election; and services provided by certain employees of a political party. 52 U.S.C. § 30101(20); 11 C.F.R. § 100.24.

<sup>10</sup> 52 U.S.C. § 30125(e)(2).

1 and soft money in its account and then use only the hard money to pay for activities in  
2 connection with other candidates' elections.<sup>11</sup>

3 As an extension of the Act's soft money ban, the Commission's regulations also  
4 explicitly prohibit "[t]ransfers of funds or assets from a candidate's campaign committee or  
5 account for a nonfederal election to his or her principal campaign committee or other authorized  
6 committee for a federal election . . . ."<sup>12</sup> The regulations provide, however, that when a  
7 candidate has both a federal and nonfederal committee, "at the option of the nonfederal  
8 committee, the nonfederal committee may refund contributions, and may coordinate  
9 arrangements with the candidate's principal campaign committee or other authorized committee  
10 for a solicitation by such committee(s) to the same contributors." The solicitations must be paid  
11 for by the federal committee(s).<sup>13</sup>

12 Below we examine the application of the soft money prohibition to each of the  
13 allegations in the Complaints.

14 **A. State Committee's Use of Soft Money**

15 1. Contributions to and Expenditures in Support of State and Local  
16 Candidates and Committees  
17

18 First, the Complaints allege that after Chappelle-Nadal became a federal candidate, the  
19 State Committee attempted to influence her federal candidacy by spending money on activities  
20 designed to draw new voters to the polls who might also vote for her in the federal election.<sup>14</sup>

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<sup>11</sup> AO 2007-26 at 3; AO 2006-38 at 3. For this purpose, the Commission has approved as reasonable the "first in, first out" and "last in, first out" accounting methods. AO 2006-38 at 3. Other accounting methods may also be reasonable.

<sup>12</sup> 11 C.F.R. § 110.3(d).

<sup>13</sup> *Id.*

<sup>14</sup> 1<sup>st</sup> Supp. Compl. (MUR 7106) at 1, Attach. G (Chris King, *Maria Chappelle-Nadal invests in progressive candidates she think[s] can help her win*, ST. LOUIS AMERICAN, July 21, 2016).

1 Specifically, the Complaints claim that the State Committee contributed at least \$92,200 to state  
2 and local candidates and paid for a mailer endorsing state and local candidates Donna Baringer,  
3 Madeline Buthod, and Patty Ellison-Brown.<sup>15</sup>

4 The State Committee does not deny that it made contributions to state and local  
5 candidates or that it paid for the endorsement mailer. It argues that the contributions complied  
6 fully with Missouri law and did not implicate the Act. The State Committee also asserts that it  
7 has a First Amendment right to endorse candidates and that it properly disclosed the cost of the  
8 endorsement mailer as “an in-kind contribution . . . in the 30-Day After Election report.” It  
9 insists that its overall strategy to “stimulate new progressive voters to support these state and  
10 local candidates” was a “lawful coalition strategy.”<sup>16</sup>

11 The State Committee’s disclosure reports show that, from the time Chappelle-Nadal  
12 became a federal candidate on October 29, 2015, until the August 2, 2016 Primary Election, the  
13 State Committee made \$104,006.58 in disbursements benefiting state and local candidates and  
14 chapters of the Democratic Party. These disbursements include: (1) \$91,300 in contributions to  
15 state and local Missouri candidates’ campaigns, a sum that is comprised of 29 separate  
16 contributions of \$250 to \$25,000 over an 8-month period;<sup>17</sup> (2) \$10,206.58 in expenditures on

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<sup>15</sup> Compl. (MUR 7106) at 1-2; 1<sup>st</sup> Supp. Compl. (MUR 7106) at 1; 2<sup>nd</sup> Supp. Compl. (MUR 7106) at 1 & Attach. B.

<sup>16</sup> Chappelle-Nadal for Congress & George Lenard in his Official Capacity as Treasurer Resp. (MUR 7106) at 2-3 (Aug. 29, 2016) (“Federal Committee’s Aug. 29, 2016 Resp.”); Maria Chappelle-Nadal Resp. (MUR 7106) at 2 (Aug. 29, 2016) (“State Committee’s Aug. 29, 2016 Resp.”); Chappelle-Nadal for Congress & George Lenard in his Official Capacity as Treasurer Resp. (MUR 7106) at 2-3 (Sept. 26, 2016) (“Federal Committee’s Sept. 26, 2016 Resp.”); Maria Chappelle-Nadal Resp. (MUR 7106) at 2-3 (Sept. 26, 2016) (“State Committee’s Sept. 26, 2016 Resp.”).

<sup>17</sup> These contributions are scattered across the State Committee’s 2015 and 2016 reports.

1   behalf of state and local Missouri candidates;<sup>18</sup> (3) \$1,500 in contributions to the Missouri  
2   Democratic Party;<sup>19</sup> and (4) \$1,000 in contributions to the 4<sup>th</sup> Ward Democratic Organization.<sup>20</sup>  
3   The available evidence also demonstrates that the State Committee spent an unknown additional  
4   sum on the mailer endorsing Baringer, Buthod, and Ellison-Brown.<sup>21</sup>

5           At the time of these contributions and expenditures, Chappelle-Nadal was a federal  
6   candidate, and the State Committee had soft money in its account and was continuing to raise  
7   soft money.<sup>22</sup> Though it appears that Chappelle-Nadal was simultaneously a candidate for  
8   Missouri statewide office, the soft money exception applies only to funds raised and spent for  
9   use in connection with one's own state election.<sup>23</sup> While she remained able to solicit and accept  
10   soft money funds to spend on her own state race, she was still prohibited from spending those

<sup>18</sup> All of these expenditure appear on the State Committee's 2016 30-Day After Primary Election Report. See 2016 30-Day After Primary Election Report, Citizens for Maria Chappelle-Nadal (Sept. 1, 2016).

<sup>19</sup> 2016 8-Day Before General Municipal Election Report, Citizens for Maria Chappelle-Nadal (Mar. 28, 2016).

<sup>20</sup> 2016 8-Day Before Primary Election Report, Citizens for Maria Chappelle-Nadal (July 25, 2016).

<sup>21</sup> Despite the State Committee's representations, the 30-Day After Primary Election Report does not itemize expenditures for an endorsement mailer, or show any contributions to Buthod or Ellison-Brown. See 2016 30-Day After Primary Election Report, Citizens for Maria Chappelle-Nadal (Sept. 1, 2016).

<sup>22</sup> From the beginning of 2013, when it was fundraising for Chappelle-Nadal's 2014 state senatorial race, until August 2016, the State Committee raised a total of \$299,581.80. Of that amount, only \$50,430.37 (16.83%) represented hard money contributions from individuals, federal political actions committees ("PACs"), and partnerships. On the other hand, \$110,460.90 (36.87%) of the contributions came from corporations, labor unions, and federally permissible donors who exceeded the Act's contribution limits. The remaining \$138,690.53 (46.29%) came from limited liability companies ("LLCs"), which may or may not be permissible sources under the Act depending on their federal tax status, see 11 C.F.R. § 110.1(g) (stating that an LLC can elect to be treated as a corporation or a partnership by the Internal Revenue Service, and the Commission will defer to that classification in applying the Act); Missouri state PACs, which under state law could accept both hard and soft money contributions; and a mixture of other entities, including business entities with unidentified structures, unregistered PACs, and other state candidate committees. Specifically, LLCs contributed \$45,628.99, state PACs contributed \$82,225.00, and the various undefined entities contributed \$10,836.54. Accordingly, 83.17% of the State Committee's available funds were soft money or potentially soft money.

<sup>23</sup> 52 U.S.C. § 30125(e)(2); MO. REV. STAT. § 130.011 (stating that a person becomes a "candidate" under Missouri law when he or she files a declaration of candidacy).

1 funds on other state and local candidates' races.<sup>24</sup> Therefore, because the available evidence  
2 shows that the State Committee spent soft money in connection with non-federal elections when  
3 it contributed to state or local level candidates, and it has not demonstrated that it had  
4 \$104,006.58 of hard money isolated using a reasonable accounting method, the Commission  
5 finds reason to believe that Chappelle-Nadal and her State Committee violated the Act's  
6 § 30125(e)(1)(B) soft money prohibition.

7           2.     Television Advertisements

8           The Complaints also allege that the State Committee, beginning in July 2016, paid  
9 Spectrum Reach TM ("Spectrum Reach") \$14,450.85 for 1,119 television advertisements  
10 promoting Chappelle-Nadal's federal candidacy, and that the Federal Committee failed to  
11 disclose this in-kind contribution.<sup>25</sup> The State Committee denies making any in-kind  
12 contributions to Chappelle-Nadal's Federal Committee. Respondents explain that Spectrum  
13 Reach erroneously billed the State Committee instead of the Federal Committee for the  
14 television advertisements. The State Committee wrote a check but realized the error and  
15 canceled it. The Respondents assert that the Federal Committee ultimately paid for the  
16 commercials and stated that it would disclose the expense on its upcoming Commission report.<sup>26</sup>  
17 The Federal Committee provided a copy of a \$14,450 check from the Federal Committee to  
18 Spectrum Reach and Spectrum Reach's confirmation of receipt of the check.<sup>27</sup> Further, a review

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<sup>24</sup> 52 U.S.C. § 30125(e)(2).

<sup>25</sup> 2<sup>nd</sup> Supp. Compl. (MUR 7106) at 1 & Attach. A.

<sup>26</sup> State Committee's Sept. 26, 2016 Resp. (MUR 7106) at 2; *see also* Federal Committee's Sept. 26, 2016 Resp. (MUR 7106) at 2.

<sup>27</sup> Federal Committee's Sept. 26, 2016 Resp. (MUR 7106), Attachs. A-B.



1 of the Federal Committee's filings shows that the Committee reported the \$14,450 disbursement  
2 to Spectrum Reach on its 2016 October Quarterly Report.<sup>28</sup>

3 Because the available information shows that the State Committee did not pay Spectrum  
4 Reach for television advertisements connected to Chappelle-Nadal's federal candidacy, the  
5 Commission finds no reason to believe that the State Committee or the Federal Committee  
6 violated 52 U.S.C. § 30125(e)(1)(A) by making and accepting, respectively, an impermissible in-  
7 kind contribution in connection with the television advertisements, or that the Federal Committee  
8 violated 52 U.S.C. § 30104(b) and 11 C.F.R. § 104.13(a) by failing to report the alleged in-kind  
9 contribution from the State Committee.

10 3. Toxic Waste Newspaper Advertisement

11 The Complaints further allege that the State Committee paid for a radio advertisement for  
12 the Federal Committee, and that the Federal Committee failed to disclose the in-kind  
13 contribution.<sup>29</sup> The Respondents deny that the State Committee paid for a radio advertisement  
14 supporting Chappelle-Nadal's federal candidacy. They assert that the expenditure to which the  
15 Complaints refer was for a newspaper advertisement in the form of a letter from Chappelle-  
16 Nadal to residents of St. Louis, entitled "Radioactive Waste: Toxic Waste Dumped Across  
17 St. Louis County." The article detailed the location of the toxic waste and its possible health  
18 effects. It then encouraged "everyone to contact their local, state and federal representatives and  
19 demand action." The Respondents acknowledge that radioactive waste is a "signature issue" for

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<sup>28</sup> 2016 October Quarterly Report, Chappelle-Nadal for Congress (Oct. 15, 2016).

<sup>29</sup> 1<sup>st</sup> Supp. Compl. (MUR 7106) at 1.

1 Chappelle-Nadal, but claim that Chappelle-Nadal published this article as a constituent  
2 communication in her continuing role as a state senator, and not as a campaign communication.<sup>30</sup>

3 As noted above, activities are covered within the scope of section 30125(e) if they are "in  
4 connection" with an election, for example, if they solicit funds, expressly advocate for a  
5 candidate's election, or constitute "federal election activity" including public communications  
6 referring to a clearly identified federal candidate and that PASO a candidate for that office.<sup>31</sup> It  
7 does not appear that Chappelle-Nadal's newspaper advertisement calling for action on a toxic  
8 waste site near St. Louis was connected to any election. The advertisement was a public  
9 communication that clearly identified a federal candidate,<sup>32</sup> Chappelle-Nadal, but the  
10 Commission has determined that the "mere identification of an individual who is a Federal  
11 candidate does not, in itself, promote, support, attack or oppose that candidate."<sup>33</sup> Furthermore,  
12 the Commission has concluded that a statement of a federal candidate's previous or ongoing  
13 legislative efforts does not PASO that candidate.<sup>34</sup> Because the newspaper advertisement here  
14 simply identified Chappelle-Nadal, discussed her previous efforts to eradicate the toxic waste,  
15 and did not identify any other candidate, we conclude the article did not PASO any candidate,  
16 and therefore did not qualify as "federal election activity."

<sup>30</sup> Federal Committee's Aug. 29, 2016 Resp. (MUR 7106) at 2; State Committee's Aug. 29, 2016 Resp. (MUR 7106), Attach. B.

<sup>31</sup> AO 2009-26 at 5; AO 2007-26 at 4; AO 2006-38 at 4.

<sup>32</sup> The Act defines "public communication" to include a communication by means of any newspaper. 52 U.S.C. § 30101(22).

<sup>33</sup> AO 2009-26 at 7.

<sup>34</sup> *See id.* at 9 (concluding that a state representative running for Congress could spend soft money on a "health care legislative update" letter to her state constituents because the letter, though it discussed her policy achievements, did not PASO her or any of her opponents).

1 In addition, the toxic waste advertisement did not solicit money, gather information about  
2 potential voters, or expressly advocate the election or defeat of any candidate. The  
3 communication was directed to the constituents of Chappelle-Nadal's state senatorial district and  
4 functioned to raise awareness of a public health risk and propose steps for solving the problem.  
5 In doing so, the advertisement was akin to the type of communications commonly produced by  
6 state officeholders. The mere fact that Chappelle-Nadal planned to continue her efforts to clean  
7 up the waste if elected to Congress did not transform the newspaper advertisement from a  
8 constituent communication into a campaign advertisement.<sup>35</sup>

9 As the available evidence indicates that the State Committee did not publish the toxic  
10 waste advertisement "in connection" with any election, the Commission finds no reason to  
11 believe that the State and Federal Committees violated 52 U.S.C. § 30125(e) by unlawfully  
12 spending or receiving soft money. As such, the Commission also finds no reason to believe that  
13 the Federal Committee violated 52 U.S.C. § 30104(b) and 11 C.F.R. § 104.13(a) by failing to  
14 report an in-kind contribution from the State Committee.

15 4. Web Services

16 Finally, the Complaints allege that the State Committee paid for the Federal Committee's  
17 web services, and that the Federal Committee failed to disclose the in-kind contribution from the  
18 State Committee.<sup>36</sup> The Complaints observe that the Federal Committee maintains a website,  
19 Facebook page, and Twitter account, but has never disclosed any expenses for hosting these  
20 platforms. The State Committee, on the other hand, disclosed a \$508 disbursement to Local

<sup>35</sup> *Id.* ("[A] State officeholder's declaration of Federal candidacy does not automatically alter the character of the candidate's activities routinely engaged in as a State officeholder.").

<sup>36</sup> Compl. (MUR 7106) at 1.

1 Politech Strategies for “data maintenance and website hosting” on its 2015 Year-End Report,  
2 even though Chappelle-Nadal was not actively campaigning for state office.<sup>37</sup> The Complaints  
3 therefore allege that the State Committee’s disbursement to Local Politech Strategies was for  
4 “data maintenance and website hosting” in connection with Chappelle-Nadal’s federal  
5 campaign.<sup>38</sup>

6 The State Committee denies paying for the Federal Committee’s web expenses. It states  
7 that the \$508 disbursement to Local Politech Strategies was for “EyesOnFerguson.com,” a now-  
8 defunct website Chappelle-Nadal created to inform people living in her state senatorial district  
9 about the unrest in Ferguson, and not a payment for the Federal Committee’s campaign website  
10 and social media accounts.<sup>39</sup> The State Committee attached to its Response a copy of an invoice  
11 from Local Politech Strategies for \$508.20 in web services. The invoice shows that the State  
12 Committee agreed to pay \$36.30 a month beginning in September 2014 for “EyesOnFerguson  
13 NationBuilder hosting.”<sup>40</sup> To explain the Federal Committee’s failure to disclose disbursements  
14 for web services, Respondents advise that the Progressive Change Campaign Committee  
15 (“PCCC”) provided Chappelle-Nadal’s congressional campaign website and social media  
16 platforms free of charge, and the Federal Committee would report the services as an in-kind  
17 contribution “at the appropriate time.”<sup>41</sup> Based on this information contradicting the  
18 Complaints’ allegations, the Commission finds no reason to believe that the State Committee  
19 made an in-kind contribution of web services to the Federal Committee, or that the Federal

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<sup>37</sup> *Id.*

<sup>38</sup> *Id.*

<sup>39</sup> State Committee’s Aug. 29, 2016 Resp. (MUR 7106) at 3.

<sup>40</sup> *Id.*, Attach. A.

<sup>41</sup> *Id.* at 3.

1 Committee accepted and failed to report such a contribution, in violation of 52 U.S.C.

2 §§ 30104(b) and 30125(e)(1)(A) and 11 C.F.R. § 104.13(a).

3 Nevertheless, the State Committee may still have violated the Act by spending soft  
4 money on “EyesOnFerguson.com” if the website was “in connection” with any election. A  
5 review of archival images of “EyesOnFerguson.com” shows that the website did not solicit  
6 money for any candidate, did not advocate the election or defeat of any candidate, did not gather  
7 information for any campaign’s use, and did not engage in “federal election activity.”<sup>42</sup> As was  
8 the case with the toxic waste advertisement, the website’s mere identification of Chappelle-  
9 Nadal and her involvement with the political events that followed the Ferguson unrest did not  
10 PASO her or any other candidate. Accordingly, we conclude that the website was not “in  
11 connection” with any election and find no reason to believe that the State Committee’s activities  
12 violated 52 U.S.C. § 30125(e)(1)(A).

13 We note, however, that the Respondents admitted that the Federal Committee was  
14 receiving in-kind contributions from the PCCC for web services, and a review of the Federal  
15 Committee’s Commission reports shows that it has failed to disclose those contributions.<sup>43</sup>  
16 Though this is a violation, the Commission will take no action other than to send a letter of  
17 caution. The potential amount in violation appears to be *de minimis*—given that Chappelle-  
18 Nadal for Congress’s campaign website (“maria2016.com”) was not particularly sophisticated  
19 and hosting “EyesOnFerguson.com,” which was comparable in sophistication, cost only \$36.30 a

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<sup>42</sup> Wayback Machine, INTERNET ARCHIVE, <http://archive.org/web/> (last visited Jan. 30, 2017) (enter “www.EyesOnFerguson.com” into the search bar to review images of what the now-defunct website once looked like).

<sup>43</sup> State Committee’s Aug. 29, 2016 Resp. (MUR 7106) at 3.

1 month.<sup>44</sup> We believe that pursuing the violation under these circumstances would not be an  
2 efficient use of Commission resources.<sup>45</sup>

3 **B. Use of Soft Money by Other Committees**

4 The Complaints further allege that Chappelle-Nadal instructed state and local candidates  
5 who received contributions from the State Committee, including Jay Mosley, Rochelle Walton  
6 Gray, Linda Weaver, and Marty Murray, to use her soft money contributions to pay for door  
7 hangers supporting her congressional campaign.<sup>46</sup> The Complaints appear to argue that  
8 Chappelle-Nadal therefore directed the use of soft money and produced coordinated  
9 communications with the candidates, which the Federal Committee failed to disclose as in-kind  
10 contributions.<sup>47</sup>

11 In support of these allegations, the Complaints reference a picture from an online news  
12 article that shows local candidate Marty Murray handing a Chappelle-Nadal door hanger to a  
13 resident.<sup>48</sup> They also enclose a copy of the other mentioned door hanger, which encourages  
14 people to "Vote Democratic & Elect" Chappelle-Nadal and state and local candidates Jay  
15 Mosley, Rochelle Walton Gray, Tony Weaver, and Linda Weaver. The door hanger has a  
16 disclaimer that states, "Paid for by Citizens to Elect Gray, Angela Mosley, Treasurer & by  
17 Citizens to Elect Jay Mosley, LLC, Angela Mosley, Treasurer."<sup>49</sup>

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<sup>44</sup> *Id.* & Attach. A.

<sup>45</sup> *Cf. Heckler v. Chaney*, 470 U.S. 821 (1985).

<sup>46</sup> See 1<sup>st</sup> Supp. Compl. (MUR 7106) at 1 & Attach. F (Rachel Lippmann, 'Young Turks' in the city look to shape Democratic Party, one seat at a time, ST. LOUIS PUBLIC RADIO, July 21, 2016); Compl. (MUR 7108) at 1 (July 18, 2016).

<sup>47</sup> 1<sup>st</sup> Supp. Compl. (MUR 7106) at 1; Compl. (MUR 7108) at 1.

<sup>48</sup> 1<sup>st</sup> Supp. Compl. (MUR 7106) at 1 & Attach. F.

<sup>49</sup> Compl. (MUR 7108), Attach. A.

1 The Respondents deny any wrongdoing with regard to the door hangers. They explain  
2 that the first door hanger in question actually had two sides—one side supporting Chappelle-  
3 Nadal for Congress and the other side supporting Murray for Seventh Ward Committeeman. The  
4 Federal Committee states that it “split” the cost of the door hanger with Murray’s committee.<sup>50</sup>  
5 An attached copy of the door hanger shows that each candidate used one side of the door hanger,  
6 with Chappelle-Nadal’s side bearing a “Paid for by Chappelle-Nadal for Congress” disclaimer,  
7 and Murray’s side bearing a “Paid for by the Committee to Elect Marty Murray” disclaimer.<sup>51</sup>  
8 The Federal Committee also attached to its Response a June 10, 2016 invoice for 500 door  
9 hangers from Ink Spot, Inc., and a check from the Federal Committee to Ink Spot, Inc. written on  
10 the same day.<sup>52</sup>

11 As to the door hanger displaying five candidates, the Federal Committee denies  
12 coordinating with Gray and Mosley in its creation and/or distribution. It states that the  
13 contributions made by the State Committee to Gray and Mosley were solely for the purpose of  
14 supporting their campaigns and any “[d]ecisions concerning expenditure of those funds, once  
15 contributed, were entirely at the discretion of the Gray and Mosley candidate committees.”<sup>53</sup>

16 When a person produces a communication at the request or suggestion of a candidate or  
17 her authorized committee, the communication is coordinated and must be reported by the

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<sup>50</sup> Federal Committee’s Aug. 29, 2016 Resp. (MUR 7106) at 2-3.

<sup>51</sup> *Id.*, Attach. A.

<sup>52</sup> *Id.*, Attachs. B-C. The invoice was for \$167.37, while the check was for \$292.35. *Id.*, Attachs. B-C. The Federal Committee does not explain the discrepancy. However, it does not appear that Chappelle-Nadal for Congress paid for Murray’s half of the door hangers because \$167.37 doubled is \$334.74.

<sup>53</sup> Chappelle-Nadal for Congress & George Lenard in his Official Capacity as Treasurer Resp. (MUR 7108) at 2 (Aug. 15, 2016).

1 committee as an in-kind contribution.<sup>54</sup> A state or local candidate can, however, partner with  
2 federal candidates to produce a communication supporting all of their campaigns without making  
3 a coordinated expenditure.<sup>55</sup> So long as each candidate pays for her allocable share of the  
4 communication, no candidate makes a coordinated expenditure or contribution to any other.<sup>56</sup>  
5 The Commission's regulations state that, when candidates partner to make a publication, they  
6 must allocate the costs based on "the proportion of space . . . devoted to each candidate as  
7 compared to the total space . . . devoted to all candidates."<sup>57</sup>

8 1. Murray Door Hanger

9 The available evidence indicates that Chappelle-Nadal and Murray partnered in the  
10 production of the door hanger at issue. Each candidate occupied one half of the space on the  
11 door hanger, and each candidate appears to have paid for one half of the costs associated with the  
12 door hanger. Therefore, the candidates correctly allocated the costs and avoided making a  
13 contribution to the other's committee.

14 Because Murray did not make a contribution to Chappelle-Nadal's Federal Committee, or  
15 a coordinated expenditure on her behalf, the Federal Committee did not have an obligation to  
16 report a contribution from Murray. Furthermore, because Chappelle-Nadal paid for her allocable  
17 share of the door hanger with funds from her Federal Committee, there was no soft money

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<sup>54</sup> 52 U.S.C. § 30116(a)(7)(B); 11 C.F.R. § 109.21(b)(1).

<sup>55</sup> 11 C.F.R. § 106.1(a).

<sup>56</sup> Advisory Op. 2006-11 (Washington Democratic State Central Committee) at 3 ("AO 2006-11") (concluding that a state political party that wished to distribute a flier featuring one clearly identified federal candidate with other "generically referenced candidates of the State Party Committee" had to pay for the correct proportion of the space used to promote the non-federal candidates, or it would be making a contribution to the federal candidate or a coordinated expenditure with the federal candidate).

<sup>57</sup> 11 C.F.R. § 106.1(a). While this regulation applies only to expenditures made on behalf of "more than one clearly identified federal candidate," the Commission has applied the principle of allocation to situations in which only one federal candidate appears in a communication. See AO 2006-11 at 2-4.



1 violation. The Commission therefore finds no reason to believe that the Federal Committee  
2 violated 52 U.S.C. §§ 30104(b), 30125(e)(1)(A), or 11 C.F.R. § 104.13(a) with regard to this  
3 door hanger.

4 2. Five-Candidate Door Hanger

5 As to the door hanger featuring Chappelle-Nadal and four non-federal candidates, the  
6 available evidence indicates that Citizens to Elect Gray, a Missouri political committee free to  
7 collect soft money, paid for the entirety of the communication. However, Respondents deny that  
8 Chappelle-Nadal or either of her Committees directed Citizens to Elect Gray to make the door  
9 hanger or told Citizens to Elect Gray how to use any of the funds contributed by the State  
10 Committee. Because there is no evidence contradicting these statements, the Commission finds  
11 no reason to believe that Chappelle-Nadal or her State and Federal Committees violated the Act  
12 by directing the use of soft money for this door hanger, in violation of 52 U.S.C.  
13 § 30125(e)(1)(A).<sup>58</sup> Relatedly, because there is no evidence that the Federal Committee  
14 coordinated with Citizens to Elect Gray in the creation and distribution of the door hanger,<sup>59</sup> the  
15 Federal Committee did not have to report the door hanger as an in-kind contribution. Therefore,  
16 the Commission also finds no reason to believe that the Federal Committee violated 52 U.S.C.  
17 § 30104(b) and 11 C.F.R. § 104.13(a)'s reporting requirements.

<sup>58</sup> 52 U.S.C. § 30125(e)(1)(A) (prohibiting federal candidates from "spending" and "directing" soft money in connection with an election for federal office).

<sup>59</sup> In order for an activity to be coordinated under the Commission's regulations, among other requirements, it must meet at least one of five enumerated conduct standards. 11 C.F.R. § 109.21(a)(3). Those standards are: request or suggestion; material involvement; substantial discussion; common vendor; and former employee or independent contractor. *Id.* § 109.21(c)(1)-(5); *see also* 52 U.S.C. § 30116(a)(7)(B). There is no evidence relating to any of these standards.

**C. Transfers Between State and Federal Committees**

Finally, the Complaints allege that the State Committee made two unlawful transfers to the Federal Committee. First, the Complaints allege that the State Committee transferred \$1,000 to the Federal Committee on December 31, 2015. The State Committee disclosed the disbursement on its 2015 Year-End Report to the Missouri Ethics Commission, but the Federal Committee failed to disclose the transfer on any of its reports.<sup>60</sup> Second, the Complaints observe from the Committees' reports that Sandy Tsai contributed \$14,000 to the State Committee in 2013, but the State Committee refunded the full amount of the contribution on December 10, 2015.<sup>61</sup> On December 29, 2015, Tsai then made a \$2,500 contribution to the Federal Committee which, the Complaints argue, was another "inappropriate transfer of funds."<sup>62</sup>

The State and Federal Committees deny that the \$1,000 transfer occurred. They assert that, while the State Committee wrote a \$1,000 check to the Federal Committee and disclosed the disbursement on its Missouri Ethics Commission Year-End Report, one of the Committees thereafter realized that the transfer should not occur. The State Committee canceled the check before the Federal Committee deposited it, and the State Committee filed an Amended Year-End Report to remove the transfer. Accordingly, the Respondents argue, the transfer never came to fruition, and the Federal Committee did not have a reporting obligation because it never deposited the check.<sup>63</sup>

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<sup>60</sup> Compl. (MUR 7106) at 1.

<sup>61</sup> *Id.*; Amended 2015 Year-End Report, Citizens for Maria Chappelle-Nadal (Feb. 1, 2016).

<sup>62</sup> Compl. (MUR 7106) at 1.

<sup>63</sup> Chappelle-Nadal for Congress & George Lenard in his Official Capacity as Treasurer Resp. (MUR 7106) at 2 (Aug. 3, 2016) ("Federal Committee's Aug. 3, 2016 Resp."); State Committee's Aug. 29, 2016 Resp. (MUR 7106) at 2-3.

1       The Respondents do not deny that Tsai received a \$14,000 refund from the State  
2       Committee and then made a contribution to the Federal Committee. They state that Tsai  
3       requested the refund, and that the State Committee did not violate the Act by complying with her  
4       request.<sup>64</sup>

5       The available evidence supports the Respondents' position that the Committees never  
6       completed the \$1,000 transfer of funds from the State Committee to the Federal Committee. The  
7       State Committee's 2015 Year-End Report disclosed a \$1,000 contribution to the Federal  
8       Committee, but the State Committee filed an amended report shortly thereafter, removing the  
9       contribution.<sup>65</sup> Furthermore, the Federal Committee never reported a \$1,000 transfer or  
10      contribution from the State Committee.<sup>66</sup> These reports corroborate the Committees' statements  
11      that the check was canceled before the Federal Committee could deposit it.

12      Furthermore, the Commission's published guidance to congressional candidate  
13      committees states that there is no reporting obligation when a committee returns a contribution to  
14      a donor without depositing it.<sup>67</sup> A "return" is analogous to the situation presented in this matter,  
15      as the Federal Committee never deposited the check, and the funds reverted back to the State  
16      Committee. Thus, treating the transaction here as a kind of return, the Federal Committee was  
17      not required to report a \$1,000 transfer.

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<sup>64</sup> Federal Committee's Aug. 3, 2016 Resp. (MUR 7106) at 1; State Committee's Aug. 29, 2016 Resp. (MUR 7106) at 2.

<sup>65</sup> 2015 Year-End Report, Citizens for Maria Chappelle-Nadal (Jan. 15, 2016); Amended 2015 Year-End Report, Citizens for Maria Chappelle-Nadal (Feb. 1, 2016).

<sup>66</sup> See 2015 Year-End Report, Chappelle-Nadal for Congress (Jan. 29, 2016).

<sup>67</sup> FED. ELECTION COMM., *Federal Election Commission Campaign Guide: Congressional Candidates and Committees* (June 2014) at 112, available at <http://www.fec.gov/pdf/candgui.pdf> ("[A] committee may return a contribution to the donor without depositing it, although the return must be made within 10 days . . . . In this case, the committee does not have to report . . . .").

1           The available evidence also indicates that Tsai asked the State Committee to refund her  
2     contribution, and there is no evidence that the State Committee paid to solicit her for her  
3     subsequent contribution to the Federal Committee. Therefore, the Commission finds no reason  
4     to believe that the State Committee or the Federal Committee violated 52 U.S.C.  
5     §§ 30125(e)(1)(A), 30104(b), and 11 C.F.R. § 110.3(d) with regard to the allegations of transfers  
6     and the alleged reporting deficiency.

**FEDERAL ELECTION COMMISSION**

**FACTUAL AND LEGAL ANALYSIS**

RESPONDENT: Spectrum Reach TM MUR: 7106

**I. INTRODUCTION**

This matter was generated by a Complaint filed with the Federal Election Commission (the "Commission") by Michelle C. Clay. In relevant part, the Complaint alleges that Spectrum Reach TM ("Spectrum Reach") violated the Federal Election Campaign Act of 1971, as amended (the "Act"), by receiving soft money for television commercials connected to a federal election.

**II. FACTUAL AND LEGAL ANALYSIS**

**A. Factual Background**

Maria Chappelle-Nadal has been a Missouri State Senator since 2010 and was a candidate for Missouri's First Congressional District during the 2016 election cycle. Citizens for Maria Chappelle-Nadal was her state candidate committee (the "State Committee"), and Chappelle-Nadal for Congress was her federal candidate committee (the "Federal Committee").<sup>1</sup>

The Complaint in this matter alleges that the State Committee, beginning in July 2016, paid Spectrum Reach \$14,450.85 for 1,119 television advertisements promoting Chappelle-Nadal's federal candidacy. The Complaint appears to argue that Spectrum Reach, a media vendor, violated the Act by receiving soft money in connection with Chappelle-Nadal's federal election.<sup>2</sup>

<sup>1</sup> CO31173: Citizens for Maria Chappelle-Nadal, MO. ETHICS COMM'N, [http://mec.mo.gov/MEC/Campaign\\_Finance/CF11\\_CommInfo.aspx](http://mec.mo.gov/MEC/Campaign_Finance/CF11_CommInfo.aspx) (last visited Jan. 30, 2017); Statement of Organization, Chappelle-Nadal for Congress (Oct. 6, 2015); Statement of Candidacy, Maria Chappelle-Nadal (Oct. 6, 2015).

<sup>2</sup> See 2<sup>nd</sup> Supp. Compl. at 1 (Aug. 30, 2016) & Attach. 1.

**B. Legal Analysis**

The Act prohibits federal candidates, their agents, and entities established, financed, maintained, or controlled by federal candidates from soliciting, receiving, directing, transferring, or spending funds in connection with any federal election unless the funds are in amounts and from sources permitted by the Act.<sup>3</sup>

Under Missouri law, candidates can accept unlimited contributions and contributions from corporations and labor unions.<sup>4</sup> Therefore, Missouri allows candidates to collect funds in excess of federal limitations and from sources prohibited by the Act.<sup>5</sup> Citizens for Maria Chappelle-Nadal's disclosure reports show that the State Committee accepted such soft money contributions.

However, based on evidence within the Commission's possession, it appears that the Federal Committee paid Spectrum Reach for the commercials. The Commission has information available establishing that Spectrum Reach erroneously billed the State Committee instead of the Federal Committee for the television advertisements. The State Committee wrote a check, but realized the error and canceled it. The Federal Committee ultimately paid for the commercials, and Spectrum Reach sent the Federal Committee confirmation of the payment. A review of the

<sup>3</sup> 52 U.S.C. § 30125(e)(1)(A); *see also* 11 C.F.R. § 300.61.

<sup>4</sup> MO. REV. STAT. §§ 130.011-.160 (providing no contribution limit); *id.* § 130.029 (stating that corporations and labor organizations may make contributions).

<sup>5</sup> 52 U.S.C. § 30116(a)(1)(A) (providing the individual contribution limit); *Contribution Limits for 2015-2016 Federal Elections*, FED. ELECTION COMM'N, <http://www.fec.gov/info/contriblimitschart1516.pdf> (last visited Jan. 30, 2017) (stating that the indexed individual contribution limit to a candidate and her authorized committee is \$2,700 per person, per election); *see also* 52 U.S.C. § 30118(a) (prohibiting corporations and labor unions from contributing to candidates and political committees).

1 Federal Committee's filings confirms that the Federal Committee reported the \$14,450  
2 disbursement to Spectrum Reach on its 2016 October Quarterly Report.<sup>6</sup>

3 Because the available information shows that the State Committee did not pay Spectrum  
4 Reach for television advertisements connected to Chappelle-Nadal's federal candidacy, the  
5 Commission finds no reason to believe that Spectrum Reach violated 52 U.S.C.  
6 § 30125(e)(1)(A).

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<sup>6</sup> 2016 October Quarterly Report, Chappelle-Nadal for Congress (Oct. 15, 2016).

**FEDERAL ELECTION COMMISSION**

**FACTUAL AND LEGAL ANALYSIS**

RESPONDENT: Madeline Buthod MUR: 7106

**I. INTRODUCTION**

This matter was generated by a Complaint filed with the Federal Election Commission (the "Commission") by Michelle C. Clay. In relevant part, the Complaint appears to allege that local Missouri candidate Madeline Buthod violated the Federal Election Campaign Act of 1971, as amended (the "Act"), by directing Maria Chappelle-Nadal to pay for a mailer announcing her endorsement of Buthod for 14<sup>th</sup> Ward Committeewoman.

**II. FACTUAL AND LEGAL ANALYSIS**

**A. Factual Background**

Maria Chappelle-Nadal has been a Missouri State Senator since 2010 and was a candidate for Missouri's First Congressional District during the 2016 election cycle. Citizens for Maria Chappelle-Nadal was her state candidate committee (the "State Committee"), which remained active as Chappelle-Nadal campaigned for federal office.<sup>1</sup>

The Complaint in this matter asserts that the State Committee paid for a mailer in which Chappelle-Nadal endorsed local candidate Buthod. The Complaint seems to suggest that Buthod directed Chappelle-Nadal to spend State Committee funds on the endorsement mailer.<sup>2</sup>

**B. Legal Analysis**

The Act prohibits federal candidates, their agents, and entities established, financed, maintained, or controlled ("EFMC'd") by federal candidates from soliciting, receiving, directing,

<sup>1</sup> CO31173: *Citizens for Maria Chappelle-Nadal*, MO. ETHICS COMM'N, [http://mec.mo.gov/MEC/Campaign\\_Finance/CFI/CominInfo.aspx](http://mec.mo.gov/MEC/Campaign_Finance/CFI/CominInfo.aspx) (last visited Jan. 30, 2017); Statement of Candidacy, Maria Chappelle-Nadal (Oct. 6, 2015).

<sup>2</sup> See 2<sup>nd</sup> Supp. Compl. at 1 (Aug. 30, 2016) & Attach. 2.



1 transferring, or spending funds in connection with any non-federal election unless the funds are  
2 in amounts and from sources permitted by the Act.<sup>3</sup> Under Missouri law, candidates can accept  
3 unlimited contributions and contributions from corporations and labor unions, *i.e.* soft money.<sup>4</sup>  
4 Citizens for Maria Chappelle-Nadal's disclosure reports show that the State Committee routinely  
5 accepted such contributions. Accordingly, it would be a violation of the Act for an agent of  
6 Chappelle-Nadal to direct the State Committee to spend funds in connection with a state or local  
7 election, unless the State Committee employed a reasonable accounting method to ensure that the  
8 disbursement was made with hard money.<sup>5</sup>

9 First, the Complaint in this matter is speculative and contains no evidence that Buthod  
10 requested Chappelle-Nadal's endorsement. Second, even if there was evidence that Buthod  
11 directed the State Committee to pay for the mailer, section 30125(e)(1) would not apply to her  
12 activities. As outlined above, that provision governs the behavior of federal candidates, the  
13 agents of federal candidates, and entities EFMC'd by federal candidates. Buthod does not fit  
14 into any of those categories. Accordingly, the Commission finds no reason to believe that  
15 Baringer violated 52 U.S.C. § 30125(e)(1)(B).

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<sup>3</sup> 52 U.S.C. § 30125(e)(1)(B); *see also* 11 C.F.R. § 300.62.

<sup>4</sup> Compare MO. REV. STAT. §§ 130.011-.160 (providing no contribution limit), and *id.* § 130.029 (stating that corporations and labor organizations may make contributions), with 52 U.S.C. § 30116(a)(1)(A) (providing the Act's individual contribution limit), and *id.* § 30118(a) (prohibiting corporations and labor unions from contributing to candidates and political committees).

<sup>5</sup> Advisory Op. 2007-26 (Schock) at 3; Advisory Op. 2006-38 (Casey State Committee) at 3.

**FEDERAL ELECTION COMMISSION**

**FACTUAL AND LEGAL ANALYSIS**

RESPONDENTS: Patty Ellison-Brown MUR: 7106

**I. INTRODUCTION**

This matter was generated by a Complaint filed with the Federal Election Commission (the "Commission") by Michelle C. Clay. In relevant part, the Complaint appears to allege that local Missouri candidate Patty Ellison-Brown violated the Federal Election Campaign Act of 1971, as amended (the "Act"), by directing Maria Chappelle-Nadal to pay for a mailer announcing her endorsement of Ellison-Brown for 23<sup>rd</sup> Ward Committeewoman.

**II. FACTUAL AND LEGAL ANALYSIS**

**A. Factual Background**

Maria Chappelle-Nadal has been a Missouri State Senator since 2010 and was a candidate for Missouri's First Congressional District during the 2016 election cycle. Citizens for Maria Chappelle-Nadal was her state candidate committee (the "State Committee"), which remained active as Chappelle-Nadal campaigned for federal office.<sup>1</sup>

The Complaint in this matter asserts that the State Committee paid for a mailer in which Chappelle-Nadal endorsed local candidate Ellison-Brown. The Complaint seems to suggest that Ellison-Brown directed Chappelle-Nadal to spend State Committee funds on the endorsement mailer.<sup>2</sup>

<sup>1</sup> CO31173: *Citizens for Maria Chappelle-Nadal*, MO. ETHICS COMM'N, [http://inec.mo.gov/MEC/Campaign\\_Finance/CF11\\_CommInfo.aspx](http://inec.mo.gov/MEC/Campaign_Finance/CF11_CommInfo.aspx) (last visited Jan. 30, 2017); Statement of Candidacy, Maria Chappelle-Nadal (Oct. 6, 2015).

<sup>2</sup> See 2<sup>nd</sup> Supp. Compl. at 1 (Aug. 30, 2016) & Attach. 2.

**B. Legal Analysis**

The Act prohibits federal candidates, their agents, and entities established, financed, maintained, or controlled (“EFMC’d”) by federal candidates from soliciting, receiving, directing, transferring, or spending funds in connection with any non-federal election unless the funds are in amounts and from sources permitted by the Act.<sup>3</sup> Under Missouri law, candidates can accept unlimited contributions and contributions from corporations and labor unions, *i.e.* soft money.<sup>4</sup> Citizens for Maria Chappelle-Nadal’s disclosure reports show that the State Committee routinely accepted such contributions. Accordingly, it would be a violation of the Act for an agent of Chappelle-Nadal to direct the State Committee to spend funds in connection with a state or local election, unless the State Committee employed a reasonable accounting method to ensure that the disbursement was made with hard money.<sup>5</sup>

First, the Complaint in this matter is speculative and contains no evidence that Ellison-Brown requested Chappelle-Nadal’s endorsement. Ellison-Brown even filed a Response stating that she has “never . . . communicated with [the] Chappelle-Nadal campaign for her support in anyway” and was unaware that the mailer existed until receiving the Complaint.<sup>6</sup> Second, even if there was evidence that Ellison-Brown directed the State Committee to pay for the mailer, section 30125(e)(1) would not apply to her activities. As outlined above, that provision governs the behavior of federal candidates, the agents of federal candidates, and entities EFMC’d by

<sup>3</sup> 52 U.S.C. § 30125(e)(1)(B); *see also* 11 C.F.R. § 300.62.

<sup>4</sup> Compare MO. REV. STAT. §§ 130.011-.160 (providing no contribution limit), *and id.* § 130.029 (stating that corporations and labor organizations may make contributions), with 52 U.S.C. § 30116(a)(1)(A) (providing the Act’s individual contribution limit), *and id.* § 30118(a) (prohibiting corporations and labor unions from contributing to candidates and political committees).

<sup>5</sup> Advisory Op. 2007-26 (Schock) at 3; Advisory Op. 2006-38 (Casey State Committee) at 3.

<sup>6</sup> Patty Ellison-Brown Resp. (MUR 7106) at 1 (Sept. 26, 2016). Buthod did not respond to the Complaints.

- 1 federal candidates. Ellison-Brown does not fit into any of those categories. Accordingly, the
- 2 Commission finds no reason to believe that Ellison-Brown violated 52 U.S.C. § 30125(e)(1)(B).

**FEDERAL ELECTION COMMISSION**

**FACTUAL AND LEGAL ANALYSIS**

RESPONDENTS: Donna Baringer MUR: 7106

**I. INTRODUCTION**

This matter was generated by a Complaint filed with the Federal Election Commission (the "Commission") by Michelle C. Clay. In relevant part, the Complaint appears to allege that Missouri state candidate Donna Baringer violated the Federal Election Campaign Act of 1971, as amended (the "Act"), by directing Maria Chappelle-Nadal to pay for a mailer announcing her endorsement of Baringer for state representative.

**II. FACTUAL AND LEGAL ANALYSIS**

**A. Factual Background**

Maria Chappelle-Nadal has been a Missouri State Senator since 2010 and was a candidate for Missouri's First Congressional District during the 2016 election cycle. Citizens for Maria Chappelle-Nadal was her state candidate committee (the "State Committee"), which remained active as Chappelle-Nadal campaigned for federal office.<sup>1</sup>

The Complaint in this matter asserts that the State Committee paid for a mailer in which Chappelle-Nadal endorsed state candidate Baringer. The Complaint seems to suggest that Baringer directed Chappelle-Nadal to spend State Committee funds on the endorsement mailer.<sup>2</sup>

**B. Legal Analysis**

The Act prohibits federal candidates, their agents, and entities established, financed, maintained, or controlled ("EFMC'd") by federal candidates from soliciting, receiving, directing,

<sup>1</sup> CO31173: *Citizens for Maria Chappelle-Nadal*, MO. ETHICS COMM'N, [http://mec.mo.gov/MEC/Campaign\\_Finance/CFI1\\_CommitInfo.aspx](http://mec.mo.gov/MEC/Campaign_Finance/CFI1_CommitInfo.aspx) (last visited Jan. 30, 2017); Statement of Candidacy, Maria Chappelle-Nadal (Oct. 6, 2015).

<sup>2</sup> See 2<sup>nd</sup> Supp. Compl. at 1 (Aug. 30, 2016) & Attach. 2.

1 transferring, or spending funds in connection with any non-federal election unless the funds are  
2 in amounts and from sources permitted by the Act.<sup>3</sup> Under Missouri law, candidates can accept  
3 unlimited contributions and contributions from corporations and labor unions, *i.e.* soft money.<sup>4</sup>  
4 Citizens for Maria Chappelle-Nadal's disclosure reports show that the State Committee routinely  
5 accepted such contributions. Accordingly, it would be a violation of the Act for an agent of  
6 Chappelle-Nadal to direct the State Committee to spend funds in connection with a state or local  
7 election, unless the State Committee employed a reasonable accounting method to ensure that the  
8 disbursement was made with hard money.<sup>5</sup>

9 First, the Complaint in this matter is speculative and contains no evidence that Baringer  
10 requested Chappelle-Nadal's endorsement. Baringer even filed a Response stating that she "had  
11 no knowledge" of the mailer and did not "authorize or approve it."<sup>6</sup> Second, even if there was  
12 evidence that Baringer directed the State Committee to pay for the mailer, section 30125(e)(1)  
13 would not apply to her activities. As outlined above, that provision governs the behavior of  
14 federal candidates, the agents of federal candidates, and entities EFMC'd by federal candidates.  
15 Baringer does not fit into any of those categories. Accordingly, the Commission finds no reason  
16 to believe that Baringer violated 52 U.S.C. § 30125(e)(1)(B).

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<sup>3</sup> 52 U.S.C. § 30125(e)(1)(B); *see also* 11 C.F.R. § 300.62.

<sup>4</sup> Compare MO. REV. STAT. §§ 130.011-.160 (providing no contribution limit), *and id.* § 130.029 (stating that corporations and labor organizations may make contributions), *with* 52 U.S.C. § 30116(a)(1)(A) (providing the Act's individual contribution limit), *and id.* § 30118(a) (prohibiting corporations and labor unions from contributing to candidates and political committees).

<sup>5</sup> Advisory Op. 2007-26 (Schock) at 3; Advisory Op. 2006-38 (Casey State Committee) at 3.

<sup>6</sup> Donna Baringer Resp. (MUR 7106) at 1 (Sept. 14, 2016).

**FEDERAL ELECTION COMMISSION**

**FACTUAL AND LEGAL ANALYSIS**

RESPONDENT: Citizens to Elect Gray and Angela Mosley MUR: 7108  
in her official capacity as treasurer

**I. INTRODUCTION**

This matter was generated by a Complaint filed with the Federal Election Commission (the "Commission") by Mary Patricia Dorsey. The Complaint alleges that Missouri candidate committee Citizens to Elect Gray and Angela Mosley in her official capacity as treasurer violated the Federal Election Campaign Act of 1971, as amended (the "Act"), by spending soft money to print and distribute a door hanger supporting Maria Chappelle-Nadal's federal candidacy.

**II. FACTUAL AND LEGAL ANALYSIS**

**A. Factual Background**

The Complaint in this matter alleges that Citizens to Elect Gray paid for a door hanger supporting Chappelle-Nadal for Congress.<sup>1</sup> A copy of the door hanger is attached to the Complaint. The door hanger encourages people to "Vote Democratic & Elect" Chappelle-Nadal and state and local candidates Jay Mosley, Rochelle Walton Gray, Tony Weaver, and Linda Weaver. The front of the door hanger has pictures of each candidate and, on the back, there is more information about Jay Mosley and Rochelle Walton Gray and a disclaimer that states, "Paid for by Citizens to Elect Gray, Angela Mosley, Treasurer & by Citizens to Elect Jay Mosley, LLC, Angela Mosley, Treasurer."<sup>2</sup>

Citizens to Elect Gray filed a Response stating that, though it was the candidates' original intention that Mosley's and Gray's committees share the cost of the door hanger, Citizens to

<sup>1</sup> Compl. at 1 (July 8, 2016).

<sup>2</sup> *Id.*, Attach. A.

Elect Gray paid the entire cost of \$356.56.<sup>3</sup> The Respondent attached a copy of the order confirmation, which billed Citizens to Elect Gray for the door hangers.<sup>4</sup>

### **B. Legal Analysis**

The Act prohibits state and local candidates from spending funds on public communications that refer to a clearly identified candidate for federal office and promote, support, attack, or oppose a candidate for that office, unless the funds are in amounts and from sources permitted by the Act, and are subject to the Act's reporting requirements.<sup>5</sup> Therefore, state and local candidates can only make such expenditures if they employ a reasonable accounting method to be sure the communication is paid for with hard money.<sup>6</sup>

A state or local candidate can, however, partner with federal candidates to produce a communication supporting all of their campaigns.<sup>7</sup> So long as each candidate pays for her allocable share of the communication, no candidate is spending money to support any other.<sup>8</sup> The Commission's regulations state that, when candidates partner to make a publication, they

<sup>3</sup> Citizens to Elect Gray and Angela Mosley in her Official Capacity as Treasurer, Citizens to Elect Jay Mosley State Committee LLC and Angela D. Mosley in her Official Capacity as Treasurer & Linda Weaver Joint Resp. at 3 (Aug. 9, 2016).

<sup>4</sup> *Id.*, Attach. F.

<sup>5</sup> 52 U.S.C. § 30125(f), *cross-referencing id.* § 30101(20)(A)(iii).

<sup>6</sup> Advisory Op. 2007-26 (Schock) at 3; Advisory Op. 2006-38 (Casey State Committee) at 3.

<sup>7</sup> 11 C.F.R. § 106.1(a).

<sup>8</sup> Advisory Op. 2006-11 (Washington Democratic State Central Committee) at 3 ("AO 2006-11") (concluding that a state political party that wished to distribute a flier featuring one clearly identified federal candidate with other "generically referenced candidates of the State Party Committee" had to pay for the correct proportion of the space used to promote the non-federal candidates, or it would be making a contribution to the federal candidate or a coordinated expenditure with the federal candidate).



1 must allocate the costs based on "the proportion of space . . . devoted to each candidate as  
2 compared to the total space . . . devoted to all candidates."<sup>9</sup>

3 Under Missouri law, candidates can accept unlimited contributions and contributions  
4 from corporations and labor unions.<sup>10</sup> Therefore, Missouri allows candidates to collect funds in  
5 excess of federal limitations and from sources prohibited by the Act, *i.e.* soft money.<sup>11</sup>

6 The available evidence here indicates that Citizens to Elect Gray, a Missouri political  
7 committee free to collect soft money, paid for the entirety of the communication. However,  
8 because Chappelle-Nadal occupied less than one-fifth of the space on the door hanger, the  
9 potential amount in violation is less than \$71.31 ( $\$356.56 \div 5$ ). Given this *de minimis* amount,  
10 the Commission dismisses Citizens to Elect Gray's 52 U.S.C. § 30125(f) violation as a matter of  
11 prosecutorial discretion.<sup>12</sup>

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<sup>9</sup> 11 C.F.R. § 106.1(a). While this regulation applies only to expenditures made on behalf of "more than one clearly identified federal candidate," the Commission has applied the principle of allocation to situations in which only one federal candidate appears in a communication. *See* AO 2006-11 at 2-4.

<sup>10</sup> MO. REV. STAT. §§ 130.011-.160 (providing no contribution limit); *id.* § 130.029 (stating that corporations and labor organizations may make contributions).

<sup>11</sup> 52 U.S.C. § 30116(a)(1)(A) (providing the individual contribution limit); *Contribution Limits for 2015-2016 Federal Elections*, FED. ELECTION COMM'N, <http://www.fec.gov/info/contriblimitschart1516.pdf> (last visited Jan. 30, 2017) (stating that the indexed individual contribution limit to a candidate and her authorized committee is \$2,700 per person, per election); *see also* 52 U.S.C. § 30118(a) (prohibiting corporations and labor unions from contributing to candidates and political committees).

<sup>12</sup> *Heckler v. Chaney*, 470 U.S. 821 (1985).

**FEDERAL ELECTION COMMISSION**

**FACTUAL AND LEGAL ANALYSIS**

**RESPONDENTS:** Citizens to Elect Jay Mosley State  
Committee LLC and Angela D. Mosley  
in her official capacity as treasurer  
Linda Weaver

**MUR: 7108**

**I. INTRODUCTION**

This matter was generated by a Complaint filed with the Federal Election Commission (the "Commission") by Mary Patricia Dorsey. The Complaint alleges that Citizens to Elect Jay Mosley State Committee LLC and Angela D. Mosley in her official capacity as treasurer, together with local candidate Linda Weaver (collectively, the "Respondents"), violated the Federal Election Campaign Act of 1971, as amended (the "Act"), by spending soft money to print and distribute a door hanger supporting Maria Chappelle-Nadal's federal candidacy.

**II. FACTUAL AND LEGAL ANALYSIS**

**A. Factual Background**

The Complaint in this matter alleges that the Respondents paid for a door hanger supporting Chappelle-Nadal for Congress.<sup>1</sup> A copy of the door hanger is attached to the Complaint. The door hanger encourages people to "Vote Democratic & Elect" Chappelle-Nadal and state and local candidates Jay Mosley, Rochelle Walton Gray, Tony Weaver, and Linda Weaver. The front of the door hanger has pictures of each candidate and, on the back, there is more information about Jay Mosley and Rochelle Walton Gray and a disclaimer that states, "Paid for by Citizens to Elect Gray, Angela Mosley, Treasurer & by Citizens to Elect Jay Mosley, LLC, Angela Mosley, Treasurer."<sup>2</sup>

<sup>1</sup> Compl. at 1 (July 8, 2016).

<sup>2</sup> *Id.*, Attach. A.

1           The Respondents filed a Joint Response stating that, though it was the candidates'  
2           original intention that Mosley's and Gray's committees share the cost of the door hanger,  
3           Citizens to Elect Gray paid the entire cost of \$356.56.<sup>3</sup> The Respondents attached a copy of the  
4           order confirmation, which billed Citizens to Elect Gray for the door hangers.<sup>4</sup>

5           **B.     Legal Analysis**

6           The Act prohibits state and local candidates from spending funds on public  
7           communications that refer to a clearly identified candidate for federal office and promote,  
8           support, attack, or oppose a candidate for that office, unless the funds are in amounts and from  
9           sources permitted by the Act, and are subject to the Act's reporting requirements.<sup>5</sup> Therefore,  
10          state and local candidates can only make such expenditures if they employ a reasonable  
11          accounting method to be sure the communication is paid for with federally permissible funds.<sup>6</sup>

12          The available evidence here indicates that Citizens to Elect Gray paid for the entirety of  
13          the communication. Therefore, because neither Citizens to Elect Jay Mosley nor Linda Weaver  
14          paid for the door hanger, the Commission finds no reason to believe that the Respondents  
15          violated 52 U.S.C. § 30125(f).

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<sup>3</sup>           Citizens to Elect Gray and Angela Mosley in her Official Capacity as Treasurer, Citizens to Elect Jay Mosley State Committee LLC and Angela D. Mosley in her Official Capacity as Treasurer & Linda Weaver Joint Resp. at 3 (Aug. 9, 2016).

<sup>4</sup>           *Id.*, Attach. F.

<sup>5</sup>           52 U.S.C. § 30125(f), *cross-referencing id.* § 30101(20)(A)(iii).

<sup>6</sup>           Advisory Op. 2007-26 (Schock) at 3; Advisory Op. 2006-38 (Casey State Committee) at 3.

## FEDERAL ELECTION COMMISSION

### FACTUAL AND LEGAL ANALYSIS

RESPONDENT: Sandy Tsai MUR: 7106

#### I. INTRODUCTION

This matter was generated by a Complaint filed with the Federal Election Commission (the "Commission") by Michelle C. Clay. In relevant part, the Complaint alleges that Sandy Tsai violated the Federal Election Campaign Act of 1971, as amended (the "Act"), by facilitating the transfer of soft money between state candidate committee Citizens for Maria Chappelle-Nadal (the "State Committee") and federal candidate committee Chappelle-Nadal for Congress (the "Federal Committee").

#### II. FACTUAL AND LEGAL ANALYSIS

##### A. Factual Background

Maria Chappelle-Nadal has been a Missouri State Senator since 2010 and was a candidate for Missouri's First Congressional District during the 2016 election cycle. Citizens for Maria Chappelle-Nadal was her state candidate committee, and Chappelle-Nadal for Congress was her federal candidate committee.<sup>1</sup>

The Complaint in this matter observes from the Committees' reports that Tsai contributed \$14,000 to the State Committee in 2013, but the State Committee refunded the full amount of the contribution on December 10, 2015.<sup>2</sup> On December 29, 2015, Tsai then made a \$2,500

<sup>1</sup> CO31173: *Citizens for Maria Chappelle-Nadal*, MO. ETHICS COMM'N, [http://inec.mo.gov/MEC/Campaign\\_Finance/CF-1-1\\_CommInfo.aspx](http://inec.mo.gov/MEC/Campaign_Finance/CF-1-1_CommInfo.aspx) (last visited Jan. 30, 2017); Statement of Organization, Chappelle-Nadal for Congress (Oct. 6, 2015); Statement of Candidacy, Maria Chappelle-Nadal (Oct. 6, 2015).

<sup>2</sup> Compl. at 1 (July 11, 2016); Amended 2015 Year-End Report, Citizens for Maria Chappelle-Nadal (Feb. 1, 2016).

1 contribution to the Federal Committee which the Complaint argues was an “inappropriate  
2 transfer of funds.”<sup>3</sup>

3 **B. Legal Analysis**

4 The Act prohibits federal candidates, their agents, and entities established, financed,  
5 maintained, or controlled (“EFMC’d”) by federal candidates from soliciting, receiving, directing,  
6 transferring, or spending funds in connection with any federal election unless the funds are in  
7 amounts and from sources permitted by the Act, *i.e.* hard money.<sup>4</sup> The Commission has  
8 concluded that a federal candidate’s state committee is an entity EFMC’d by the federal  
9 candidate.<sup>5</sup>

10 As an extension of the Act’s soft money ban, the Commission’s regulations explicitly  
11 prohibit “[t]ransfers of funds or assets from a candidate’s campaign committee or account for a  
12 nonfederal election to his or her principal campaign committee or other authorized committee for  
13 a federal election . . . .”<sup>6</sup> The regulations provide, however, that when a candidate has both a  
14 federal and nonfederal committee, “at the option of the nonfederal committee, the nonfederal  
15 committee may refund contributions, and may coordinate arrangements with the candidate’s  
16 principal campaign committee or other authorized committee for a solicitation by such  
17 committee(s) to the same contributors.” The solicitations must be paid for by the federal  
18 committee(s).<sup>7</sup>

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3 Compl. at 1.

4 52 U.S.C. § 30125(e)(1)(A); *see also* 11 C.F.R. § 300.61.

5 Advisory Op. 2007-26 (Schock) at 4; Advisory Op. 2006-38 (Casey State Committee) at 4.

6 11 C.F.R. § 110.3(d).

7 *Id.*

1           Here, the Commission has information indicating that Tsai asked the State Committee to  
2   refund her contribution, and there is no information before the Commission suggesting that the  
3   State Committee paid to solicit her for her subsequent contribution to the Federal Committee.  
4   Therefore, the Commission finds no reason to believe that Tsai violated 52 U.S.C.  
5   § 30125(e)(1)(A) with regard to the allegations of an illegal transfer between the State and  
6   Federal Committees.